



# city commission agenda

## Regular Meeting

3:30 p.m.  
May 9, 2011  
Commission Chambers

commissioners		mayor		commissioners	
seat 1	Steven Leary	seat 2	Sarah Sprinkel	seat 3	Carolyn Cooper
			Kenneth W. Bradley	seat 4	Tom McMacken

## welcome

Welcome to the City of Winter Park City Commission meeting. The agenda for regularly scheduled Commission meetings is posted in City Hall the Tuesday before the meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's Web site at [www.cityofwinterpark.org](http://www.cityofwinterpark.org).

## meeting procedures

**Persons desiring to address the Commission MUST fill out and provide to the City Clerk a yellow "Request to Speak" form located by the door.** After being recognized by the Mayor, persons are asked to come forward and speak from the podium, state their name and address, and direct all remarks to the Commission as a body and not to individual members of the Commission, staff or audience.

**Comments at the end of the meeting under New Business are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left to sum up.** Large groups are asked to name a spokesperson. This period of time is for comments and not for questions directed to the Commission or staff for immediate answer. Questions directed to the City Commission will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you for participating in your city government.

1	Meeting Called to Order	
2	Invocation Pastor Eric Doran, Kress Memorial Seventh Day Adventist Pledge of Allegiance	
3	Approval of Agenda	
4	Mayor's Report <ul style="list-style-type: none"><li>a. Employee of the Quarter Peter Moore</li><li>b. <a href="#">Proclamation-Winter Park High School International Baccalaureate Day</a></li><li>c. Proclamation-Building Safety Month</li><li>d. Report of the Florida League of Mayors conference</li><li>e. <a href="#">2011 Board appointments</a></li></ul>	Projected Time 45 minutes
5	City Manager's Report	Projected Time 5 minutes

<b>6</b>	<b>City Attorney's Report</b>	<b>Projected Time</b>
<b>7</b>	<b>Non-Action Items</b>	<b>Projected Time</b>
<b>8</b>	<b>Citizen Comments   5 p.m. or soon thereafter</b> <b>(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)</b> (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)	<b>Projected Time</b>
<b>9</b>	<b>Consent Agenda</b>	<b>Projected Time</b>
	<ul style="list-style-type: none"> <li>a. Approve the minutes of 4/25/11.</li> <li>b. Approve award of IFB-15-2011, Purchase of Clay Street Brick Pavers to Brick America.</li> <li>c. Approve the following purchases and contracts: <ul style="list-style-type: none"> <li>1. PR 146628 to Hufcor Florida Group for the owner direct purchase of smoke and fire curtain for the Community Center; \$56,515.20</li> <li>2. Deduct Change Order COR-011 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; deduct \$735,625.91 against the contract price</li> <li>3. Products and services agreement with CenturyLink Sales Solutions, Inc. to replace an existing telecommunications circuit and authorize the Mayor to execute the agreement; decrease monthly circuit invoice by \$1,731</li> <li>4. Task Order 2010-01 Amendment 1, Fairbanks Corridor Wastewater Collection &amp; Transmission System Re-Design</li> </ul> </li> <li>d. Approve the conceptual plans of the Mead Garden upper terrace patio development and recommend proceeding with the construction and development of the approved terrace area with \$35,000 of grant funding as presented and approved by the City Commission during the April 11, 2011 Commission meeting.</li> <li>e. Approve the Memorandum of Understanding with the City of Orlando Fire Department for the purpose of developing a special operations response and training system.</li> </ul>	5 minutes
<b>10</b>	<b>Action Items Requiring Discussion</b>	<b>Projected Time</b>
	<ul style="list-style-type: none"> <li>a. Banner Policy Changes</li> <li>b. Nuclear Electric Insurance Limited (NEIL) refunds</li> <li>c. Task Force regarding the construction of a new City Hall and Library</li> <li>d. Advisory Board master ordinance</li> </ul>	30 minutes 15 minutes 15 minutes 30 minutes

11 Public Hearings	Projected Time
a. <b>Ordinance</b> -Revise the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications (1) <b>6:00 P.M.</b>	30 minutes
b. <b>Ordinance</b> -Authorizing the refunding of the General Obligation Bonds, Series 2001 (2)	10 minutes
c. <b>Resolution</b> -Authorizing the issuance of not exceeding \$8,000,000 General Obligation Refunding Bonds, Series 2011	10 minutes
d. <b>Resolution</b> -Complete streets and pedestrian safety	10 minutes
e. <b>Resolution</b> -Clarifying/governing advisory board communication and enforcing codes	5 minutes
f. <b>Ordinance</b> -Public records request policy (1)	10 minutes
12 City Commission Reports	Projected Time
a. Commissioner Leary b. Commissioner Sprinkel c. Commissioner Cooper 1. Consideration of establishment of a Budget/Finance Advisory Board or Task Force d. Commissioner McMacken e. Mayor Bradley 1. Mayor's 125 <sup>th</sup> City anniversary task force (October 2012) 2. Denning Avenue vision and form based code 3. Commission governance 4. City governance: balanced score card creation and review	10 minutes each
13 Executive Session	
1. Move executive session meeting into Room 200.  ** The Executive Session Meeting will be closed to the public. City Manager Randy Knight, City Attorney Larry Brown, Mayor Kenneth Bradley, City Commissioners Leary, Sprinkel, Cooper and McMacken and a court reporter will meet to discuss a settlement of claim of Club Harem.  2. Adjourn meeting in Commission Chamber.	
14 Re-Convene Commission Meeting	
Recommend approval of resolution of litigation.	

## appeals & assistance

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"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105).

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."



## **Information for issuing a Proclamation regarding the International Baccalaureate Program at Winter Park High School**

- The International Baccalaureate Program at Winter Park High School is celebrating its 25<sup>th</sup> Anniversary on Saturday, May 21, 2011 at 10 a.m.
- The IB Program at Winter Park High School is the fourth oldest IB program in the state of Florida, authorized on April 1, 1985.
- Over 1500 students have completed the IB Diploma program over the past 25 years.
- WPHS's IB program has consistently ranked in the top 1% of IB Diploma Programs according to IB Diploma pass rates.
- Within the past 10 years, the IB students have comprised all or most of the National Merit Finalists at WPHS.
- The past five IB senior classes have contributed over 41,000 hours of service to their local community.
- Winter Park IB students have been eligible for over \$10 million dollars in scholarship money from Florida's Bright Futures Scholarship since 1998.
- The past six IB classes have produced two Lombardi Scholarship awardees at the University of Florida and three Morehead Scholarship awardees from the University of North Carolina at Chapel Hill, two of the most comprehensive academic scholarships offered in the country.
- IB students have been consistently admitted to the top universities in the country including the Ivy League schools, top 25 national universities and liberal arts colleges, and all Florida universities and colleges.
- The success of Winter Park's IB students have significantly contributed to Winter Park High School's position as the 166<sup>th</sup> top school in the country by the 2010 *Newsweek* ranking.
- IB alumni now work in such various fields as law, medicine, education, film, engineering, business, government, hospitality, entertainment, and computing.
- 100% of IB students have pursued higher education following their high school graduation.

2.0	TERM	ID	First Name	Last Name	Home Address	City	State	Zip	Home Phone	Business Address	City	State	Zip
BOARD OF ADJUSTMENT													
Alternate promoted to regular board member.													
1	2011-2014	120	John	Simpson	231 E Reading Way	Winter Park	FL	32789	407-644-1850	280 W Cantor	Winter Park	FL	32789
	Re-appoint,												
2	2011-2014	122	Lucy	Morse	313 Henkel Circle	Winter Park	FL	32789	407-647-2231	retired			
3	2011-2014												
	Alternate,												
4	2011-2013												
CODE ENFORCEMENT													
1	2011-2014		Carl	Sanford	Alternate promoted to regular board member.								
2	2011-2014	109	Frederick	Jones	1616 Golfside Drive	Winter Park	FL	32792	407-678-1134	Post Office Bc	Winter Park	FL	32790
	Alternate,									112 Annie			
3	2011-2013	110	Brian	Kracht	1131 Palmer Avenue	Winter Park	FL	32789	(407) 563-3600	Street	Orlando	FL	32806

COMMUNITY RE-DEVELOPMENT ADVISORY BOARD

1	2011-2014	Paul	Saint-Pier	Alternate promoted to regular board member.				
2	2011-2014							
Alternate,								
3	2011-2013	138 Alan	Thompson	1323 Dallas Ave	Winter Park	FL	32789	407-619-5625

CONSTRUCTION BOARD OF ADJUSTMENT

1								
2								
3								

ECONOMIC DEVELOPMENT ADVISORY BOARD

1	123 Owen	Beitsch	1629 Park Ave	Winter Park	FL	32789 (407) 647-1651	14 East Washi Orlando	FL	32801
2	111 John	Gill	1212 Burning Tree Lar	Winter Park	FL	32792 407-647-8054	1000 Legion F Orlando	FL	32801

ENVIRONMENTAL REVIEW BOARD

1	125	Stephen Pategas	1425 Berkshire Avenu	Winter Park	FL	32789	407-622-4885	
2								
3								

ETHICS BOARD

Re-appoint,								
1 2011-2014	130	Julie Zimmerman	250 Carolina Ave #402	Winter Park	FL	32789	(407) 599-7560	800 N. Magnc Orlando FL 32803
2 2011-2014		Kit Pepper	Alternate promoted to regular board member.					
Alternate, 3 2011-2013	140	Michael English	871 via Lugano	Winter Park	FL	32789	(407) 622-1551	9002 San Mar Orlando FL 32836

HISTORICAL PRESERVATION BOARD

1 2011-2014								

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KEEP WINTER PARK BEAUTIFUL BOARD

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1	106	John Rife III	1650 Pine Ave.	Winter Park	FL	32789	407-529-9717	427 S. New Yc	Winter Park	FL	32789
2	131	Lucy Roberts	1310 Temple Grove C	Winter Park	FL	32789	(407) 587-9924		Winter Park	FL	32789
3		Robert (Tom) Shutts									
4	114	Kimberly Roberts	1411 Hibiscus Ave	Winter Park	FL	32789	407-628-4947	1231 Seminol	Casselberry	FL	32707
5											
6											
7											
8											

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LAKES AND WATERWAYS BOARD

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LAKES AND WATERWAYS BOARD												
1	144	Jesse	Graham	660 Via Lugano	Winter Park	FL	32789	407-462-6743	450 S. Orange	Orlando	FL	32801
2	89	Nora	Miller	375 Sylvan Drive	Winter Park	FL	32789	407-539-7058	15 N. Eola Drive	Orlando	FL	32801
3		James T.	Barnes									

PARKS AND RECREATION BOARD

1	2011-2014	132	Woody	Woodall	328 N Park Ave	Winter Park	FL	0.3278	(407)645-0966	Same		
2	2011-2014		Marni	Spence								
3	2011-2014	118	Janet	Atkins	1060 McKean City	Winter Park	FL	32789	407-629-6423	PO Box 418	Winter Park	FL 32790

PEDESTRIAN AND BICYCLE SAFETY BOARD

1		135	Whit	Blanton	2343 Woodcrest Drive	Winter Park	FL	32792	407-622-1721	121 S Orange Ave, Suite	Orlando	FL 32801
2		116	Gordon	Blitch	695 French Avenue	Winter Park	FL	32789	(407) 599-6658	695 French A\	Winter Park	FL 32789

PLANNING AND ZONING BOARD

1	Remove		Wendell	Hays	Remove due to missing attendance requirements.							
2	2011-2013		George	Livingston	Alternate promoted to regular board member.							
3	2011-2014	126	James	Johnston	616 Langholm Drive	Winter Park	FL	32789	407-622-2127	300 S. Orange	Orlando	FL 32801
4	2011-2014	102	Peter	Gottfried	1841 Carollee Lane	Winter Park	FL	32789	407-718-3880	201 W. Canto	Winter Park	FL 32789
5	2011-2013	128	Randall	Slocum	1162 N. New York Ave	Winter Park	FL	32789	407-740-4013	200 E. New Er	Winter Park	FL 32789

PUBLIC ARTS ADVISORY BOARD

1

2

TREE PRESERVATION BOARD

1

127 Anthony

Gray

452 Sylvan Dr

Winter Park

FL

32789 406-647-7446

1133 Louisian Winter Park FL

32789

2

Planning & Zoning

3

Parks & Recreation

4

Board of Adjustment

Alternate,  
5 2011-2013



UTILITIES ADVISORY BOARD

		<b>Macauley</b>						152 Lincoln			
1	129	<b>(Mike)</b>	<b>Whiting, J</b>	405 Lakewood Drive	Winter Park	FL	32789	407-628-8545	Avenue	Winter Park	FL 32789
2											

FIRE PENSION BOARD

				1033 Via Tuscany				250 S. Park			
1	72	<b>Robert</b>	<b>Harvie</b>	Oaks Way	Winter Park	FL	32789	407-644-4074	Ave., Suite	Winter Park	FL 32789
2											

POLICE PENSION BOARD

1											
2											
3											

**REGULAR MEETING OF THE CITY COMMISSION**  
**April 25, 2011**

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was provided by Pastor David Barker, Aloma Baptist Church, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley  
Commissioner Steven Leary  
Commissioner Sarah Sprinkel  
Commissioner Tom McMacken  
Commissioner Carolyn Cooper (departed 8:45pm)

Also present:

City Manager Randy Knight  
City Attorney Larry Brown  
City Clerk Cynthia Bonham  
Deputy City Clerk Michelle Bernstein

**Approval of the agenda**

Commissioner McMacken requested that Item 11.f. (Ordinance-Advisory Board membership and roles first reading) be moved to Action Items Requiring Discussion. **Motion made by Commissioner McMacken to approve the agenda with this change; seconded by Commissioner Cooper.** Mayor Bradley advised that if they do take action they cannot make appointments at this time or they could adjust the appointments at a different time; therefore, he will be voting against changing the agenda. **Mayor Bradley voted no. Commissioners Leary, Sprinkel, Cooper and McMacken vote yes. Motion carried with a 4-1 vote.**

**Mayor's Report**

a. WPHS Basketball Team Recognition

Mayor Bradley recognized Winter Park High School for achieving the Men's Basketball State Championship for the second year in a row and for ranking number 4 nationally by USA Today. Mayor Bradley proclaimed April 25, 2011 as Winter Park High School Boy's Basketball Team day.

b. Presentation by Dana Sussman of the 30<sup>th</sup> Tree City USA Award, the 20<sup>th</sup> Growth Award and the grant check, from the State of Forestry, for \$18,000 for Hazardous Tree Pruning

Ms. Dana Sussman, Florida Department of Urban Forestry presented the 30th Annual Tree City USA Award and a 20th Annual Growth Award. She also presented a grant check from the State of Forestry for \$18,000 for hazardous tree pruning. She summarized the standards the City must meet annually to continue to receive the Tree City USA Award and to receive the Growth Award. Lee Mackin, Forestry Division advised that April 29 will be National Arbor Day and the Forestry Division will be hosting a tree-planting ceremony and tree giveaway in Central Park and encouraged all to attend.

c. Proclamation - Occupational Safety and Health Week

Mayor Bradley read a proclamation proclaiming May 6, 2011 as Occupational Safety and Health Professionals day and May 1-7, 2011 as North American Occupational Safety and Health week.

d. Proclamation - Administrative Professionals Week

Mayor Bradley presented a proclamation marking April 24-30, 2011 as Administrative Professionals week and recognized all Administrative Professionals for their great work.

e. Donation to the Friend's of Mead Garden from the Florida Symphony Youth Orchestra

Mayor Bradley noted that through the generosity of a Florida Symphony Youth Orchestra supporter who wishes to remain anonymous, a gift of \$250,000 was donated to the Friends of Mead Garden and the City of Winter Park Parks and Recreation Department. This gift will be used to build a combined performance stage and learning pavilion overlooking Lake Lillian, as part of the revitalization of Mead Botanical Garden. Mayor Bradley thanked the anonymous donor for this wonderful gift.

f. Citizen and police recognition

Mayor Bradley recognized Leka (Alex) Nikollaj an employee of Giovanni's Restaurant for his valiant efforts in assisting with apprehending and detaining a bank robbery suspect so that the Winter Park Police department could make an arrest. A presentation of the Citizen Award was given to Mr. Nikollaj for his heroic and courageous actions.

g. Thanks to City staff for a very successful 10<sup>th</sup> Dinner on the Avenue

Mayor Bradley thanked City staff for making the 10th Dinner on the Avenue a wonderful event.

Mayor Bradley mentioned that last week a worker cut through a TECO gas line and the response from the City's Fire Department was outstanding. He personally thanked them for their service in making everyone safe.

h. Board applications and appointments for the City Commission meeting of May 9, 2011

Mayor Bradley reminded everyone to submit their board applications before the next meeting of May 9 if they would like to be recognized and considered. It was noted that there is no deadline; however, the appointments will be made at the next meeting of May 9, 2011.

**City Manager's Report**

City Manager Knight followed up on an item from their Strategic Planning session. He said they talked about the creation of some sort of group or task force to look at City Hall and the library and what opportunities are available for future rebuilding with a public/private partnership. Commissioner Leary shared his understanding and said they discussed looking at this more holistically but in a larger scale format for future projects and to obtain ideas and recommendations that maybe incorporates the library, City Hall and other projects so that 10 years down the road they have a plan rather than being forced to make a decision.

Commissioner McMacken recalled they wanted to engage individuals with different expertise to be involved in a task force or group that would help them look at things in a larger view with possible different locations for various buildings that could be considered in the future.

Commissioner Cooper recalled they should bring in the best development minds in the community to help them figure out how we could build City Hall and the library at no cost to the citizens. She indicated that these discussions are acceptable; however, she wanted to ensure that they are very public and to allow citizens the opportunity to participate and understand what they are considering.

Commissioner Sprinkel said they also wanted some 'out of box' thinking and to have some people come together that might not be a formalized situation but a task force that could work for a period of time and bring them a number of different ideas. City Manager Knight said they could put something together for the next meeting as an action item. Mayor Bradley asked that the item include a scope and a process by which to include interested parties/citizens who would like to serve. The request was acknowledged.

City Manager Knight advised that they are close to putting out the bid for the Fairbanks Avenue project between 17-92 and I-4. He said further exploration has taken place with regard to colored and stamped asphalt for the medians and the cost will be approximately \$1 million additional to the project so they would either need City funds or an assessment option. There was consensus to put it out to bid both ways, with and without the colored stamped asphalt medians.

City Manager Knight then provided an update on the pension reform bill. He advised that the House sub-committee passed the House version last week that would allow us to negotiate changes to the plan with the respective bargaining units and not have the threat of losing the state 175/185 money if they negotiate such changes. It also allows that money to be used toward any unfunded liability, both of which are positive steps should they remain. He mentioned that he sent them an email containing a written report on other legislative items and that he will keep them informed on the future updates. Mr. Knight answered questions.

Commissioner McMacken asked if they have received the contract revision amount from the consultant on Fairbanks for not doing the medians and doing the paved medians. He also asked about a timeline for each task and the completion dates and asked if they could include an extra line item in their report with this information. The request was acknowledged. Water and Wastewater Utility Director David Zusi advised that he received a revision to the contract and that it will be on the next agenda. He said it will also include the JPA agreement as long as FDOT returns it back to him in time.

### **City Attorney's Report**

No items to report.

### **Non-Action Items**

#### **a. Financial Report – March 2011**

Finance Director Wes Hamil provided the March 2011 financial report and answered questions.

**Motion made by Mayor Bradley to accept the financial report; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.**

**Consent Agenda**

- a. Approve the minutes of 4/11/11. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
- b. Approve the following purchases and contracts:
  1. PR 146564 to Camp Dresser & McKee, Inc. for Comprehensive Water Rate Study, (Task Order CDM-2011-01); \$72,408
  2. Blanket Purchase Order to GATSO USA, Inc. for administration of red light safety enforcement system; \$70,000
  3. Deduct Change Order COR-011 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; deduct \$6,888
  4. After the fact Change Order COR-013 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$18,175. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
  5. After the fact Change Order COR-014 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$21,010. – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**
  6. Deduct Change Order COR-015 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document; deduct \$7,387
  7. Amendment #1 IFB-8-2010, Reforestation Services with Groundtek, Inc. and authorize the Mayor to execute Amendment #1 – **PULLED FROM CONSENT AGENDA FOR DISCUSSION – SEE BELOW**

**Motion made by Commissioner McMacken to approve Consent Agenda Items b'1-3' and b'6'; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

**Consent Agenda Item 'a' - Approve the minutes of 4/11/11.**

Mayor Bradley indicated that there is a minor modification on page 2 regarding the title of Mr. Reicher and requested to correct the title as Chairperson. Commissioner Cooper referenced page 3, Presentation on Economic Development and the sentence "A reason was not given for the no vote." She said she is not sure that sentence is necessary since the items she questioned were clear and asked that her discussion items be added to the minutes. Mayor Bradley indicated that he recalled the conversation; however, he believes only one item was mentioned and would prefer that particular sentence be deleted.

**Motion made by Mayor Bradley to approve Consent Agenda Item 'a' with the change from President to Chairperson and "A reason was not given for the no vote" stricken; seconded by Commissioner Leary.** Commissioner Cooper asked if her motion failed. Mayor Bradley clarified that she did not make a motion.

**Motion made by Commissioner Cooper to add her discussion items back into the minutes. Motion failed for lack of a second.**

**The original motion carried unanimously with a 5-0 vote.**

Consent Agenda Item b-'4' - After the fact Change Order COR-013 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$18,175.

Consent Agenda Item b-'5' - After the fact Change Order COR-014 to Community Center (RFQ-17-2009) to increase to project GMP but within overall budget and ratify the decision of the City Manager; \$21,010

Commissioner Cooper questioned the two after the fact change orders and the process. City Manager Knight said they have a process that allows him to do this and report them to the Commission after the fact when the timing of such would cause the project to be delayed if they wait the two weeks. He further explained that they are two completely different change orders, one is relative to the locks in the building and the other was relative to the roof and both happened to occur within the same two week period.

**Motion made by Mayor Bradley to approve Consent Agenda Item b-'4' and b-'5'; seconded by Commissioner Leary. Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

Consent Agenda Item b-'7' - Amendment #1 IFB-8-2010, Reforestation Services with Groundtek, Inc. and authorize the Mayor to execute Amendment #1

Mayor Bradley asked about the current services of Groundtek and the reforestation. He said they have had a lot of dead trees and is concerned with the process and this amendment. Parks and Recreation Director John Holland explained that they are guaranteed for one year and they have required Groundtek to replace/replant the dead trees which they are currently performing. He indicated that they have surpassed our one year contract date and requested that they continue the contract until the services are completed as they still have one quadrant left which is approximately 80 trees to replant. He also indicated that they will not execute this amendment until they have completed this year's existing contract.

**Motion made by Commissioner McMacken to approve Consent Agenda Item b-'7' with the condition that Amendment #1 be held until the current planting in this quadrant is completed; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.**

**Action Items Requiring Discussion:**

a. City of Winter Park Fallen Hero's Memorial

Fire Chief Jim White provided information which included the materials to be used, the size of the memorial and site location. September 11, 2011 will mark the 10th anniversary of the tragic deaths of close to 3,000 Americans of which more than 400 were public safety servants. He stated their goal is to work with a local architect to design a fitting memorial site at the Public Safety Complex to honor both those lost in this attack and those Winter Park Public Safety workers who have served and have made the ultimate sacrifice. Funding for the project would be provided through a donation from the Winter Park Rotary Club with a memorial fund being

established through the sale of engraved bricks along the memorial. This project is supported by both Public Safety agencies and the Public Art Board. They have only considered ideas that are appropriate in honoring those fallen public servants and feel strongly that this memorial reflects the communities commitment to their public safety employees and the sacrifices made on 9-11.

**Motion made by Mayor Bradley to approve the preliminary plans for the City of Winter Park Fallen Hero's Memorial; seconded by Commissioner Sprinkel.** Commissioner McMacken asked about the timeframe. It was clarified that the Rotary Club is working diligently to raise the funds and they hope to have this constructed by 9-11 of this year. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- b. Offer of a sculpture *White "A"* by Winter Park resident Micheline Kramer to the City for a 10 year period on Morse Boulevard

Joseph Roviato, Chairman of the Public Art Advisory Board, indicated that they are in support of the gift to the City. They have met with both Micheline Kramer and staff at the proposed site and the location works well. He indicated that if this gift is accepted and is installed at this location it will enhance the Art on the Lakes Tour because the sculpture will be at the start of the current boat tour. Mayor Bradley thanked Ms. Kramer for this wonderful gift and indicated that if other citizens have similar artwork he encouraged them to bring it forth to the Art Advisory Board for review.

**Motion made by Commissioner McMacken to approve the White "A" sculpture donation for a 10 year period on Morse Boulevard; seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- c. Administrative policy

City Manager Knight advised that as a result of last year's Strategic Planning Session staff was directed to bring back several policies including the budget policy and pension funding which is inclusive. Mr. Knight explained that there are significant new or changed policies included as follows:

I (8) – Establishes a policy that the City will fund the higher of the minimum required contribution or the annual pension cost of the police and fire defined benefit retirement plans each year.

I (9) – Established a policy of budgeting an operating contingency of no less than ½ of 1% of the budgeted General Fund expenditures.

I (11) – Modifies the City Manager budgetary level of control. Currently, any budget transfer between departments requires Commission approval. Under this proposed policy, the City Manager would be able move budgeted amounts between departments within the same fund. If this policy is accepted, it would also need to be reflected in the budget ordinance that is adopted in September.



Sections II – IV. All of this is either covered by a separate adopted policy or has been past practice.

V (3) – Sets forth policy for what happens once the City reaches its Reserves goal of 30% of recurring expenditures.

V (5) – Establishes a policy for enterprise fund working capital levels.

Sections VI – IX. These sections formalize what has been past practice.

Section X. This section formalizes into a policy a motion that was adopted by the Commission at its meeting on August 9, 2010.

**Motion made by Mayor Bradley to approve the Administrative Policy as presented; seconded by Commissioner Leary.**

Commissioner Cooper asked for clarity regarding Item I, Operating Budget Policies, #8 pertaining to the terms relative to the annual required contributions on the pensions. Mr. Knight explained that each year the actuary tells the City what they should fund and that is the amount that the City always funds; however, there are years if they go back to the early 2000's where our normal cost was higher than what the actuary told the City to put in because we were over funded at that time. He advised that this would require the City to set aside the normal cost each year for preventative measures should we need to use it.

City Manager Knight answered Commissioner Cooper's concerns regarding Item II, Revenue Policies, #3 user fees; #6 percentage of operating transfers to the General Fund from the utility funds; Item IV, Debt Policies, and if it should be included in two different policies; and Item V, Reserves Policies, #3 pertaining to the amount in excess of 30% may be used at the discretion of the Commission to fund any nonrecurring costs such as a capital project contained in the five-year CIP, to pay down a debt balance or to fund a consulting study or survey.

Commissioner Cooper referenced Item VII, Accounting and Fiscal Reporting Policies, #1 stating "An independent audit will be performed annually." She said they should have an independent audit of the City's actuarials and inquired if that item is included in a different policy. Mr. Knight noted that it is currently not in any policy. He further explained that they have an audit of the pension funds every year but they do not have someone that audits the actuary report because per state statutes the pension board chooses the consultants so we do not have oversight over that. He said they have suggested this to them in the past and will do so again. She asked that this item be brought before the board.

Commissioner McMacken shared his concerns regarding Item X, Scheduling of Meetings Policies, #1, "All such work sessions or special meetings should be requested and if possible scheduled in a regularly scheduled public City Commission meeting." City Manager Knight explained that there is an exception to the above and referenced #2 by advising that if an unforeseen, time sensitive matter arises in which waiting for the next regularly scheduled Commission meeting could result in an adverse impact of some kind, the meeting can be called outside of a regularly scheduled Commission meeting. Mayor Bradley requested that a distinction be made between special called meetings and work session meetings. Commissioner McMacken agreed. Commissioner Cooper requested that it says "special

meetings should if possible be requested and scheduled” as opposed to “special meetings should be requested and if possible scheduled”.

**Motion amended by Commissioner Cooper to include the following changes: Under scheduling of meetings, “be requested and if possible schedule” to say “and if possible be requested and scheduled”; seconded by Commissioner McMacken.**

**Motion amended by Commissioner Cooper that what they do with the 30% reserve overage to delete “the use of those funds for surveys or consulting” and they keep it to “capital or paying down debt”; seconded by Commissioner McMacken.** Commissioner Cooper wanted to make sure that her amendment above does not allow them from being able to use these funds for emergencies. City Attorney Brown stated that Item V. #2a has specific language that would control over general language and it states that “The portion of the 30% undesignated reserve balance described in (1) above may be used at the discretion of the City Commission for emergency and non-emergency uses and it does define emergency uses.” City Manager Knight clarified that one item talks about the 30% and the other talks about the overages.

Mayor Bradley stated that he cannot support her amendment because he may want to give the money back to our citizens.

**Motion amended by Mayor Bradley to suggest that anything over 30% would be at the discretion of the Commission including potential rebates to our citizens; seconded by Commissioner Leary.**

Mayor Bradley asked for clarity regarding Item V, Reserve Policies, #4 regarding 10% of any annual increase in the General Fund balance as reported in the audited Comprehensive Annual Financial Report will be designated for the acquisition of land for parks. City Manager Knight explained that this is 10% of the General Funds.

**Upon a roll call vote on the amendment (Under scheduling of meetings she requested to move the “be requested and if possible schedule” to say “and if possible be requested and scheduled”); Mayor Bradley and Commissioners Leary, Cooper and McMacken voted yes. Commissioner Sprinkel voted no. The motion carried with a 4-1 vote.**

**Upon a roll call vote on the amendment (that what they do with the 30% reserve overage to delete “the use of those funds for surveys or consulting” and they keep it to “capital or paying down debt”); Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.**

**Upon a roll call vote on the main amendment (to take all of the differences so that it reads “it is at the discretion of the City Commission for emergency and non-emergency uses”); Mayor Bradley and Commissioner Sprinkel voted yes. Commissioners Leary, Cooper and McMacken voted no. The motion failed with a 3-2 vote.**

**Upon a roll call vote on the main motion as amended (to approve the Administrative Policy) with the following items (Under scheduling of meetings to move the “be requested and if possible schedule” to say “and if possible be requested and scheduled”) and (that what they do with the 30% reserve overage to delete “the use of**

**those funds for surveys or consulting” and they keep it to “capital or paying down debt”); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

### **Public Comments**

William Shallcross, 1450 Bonnie Burn Circle, spoke about the book called “Married to the Mouse” and encouraged everyone to read it because it talks about the history of how the road network in Central Florida was developed.

Peter Weldon, 700 Via Lombardy, asked why the Land Development Code is included in the Comprehensive Plan. He asked the Commission to consider bringing up this topic for broader discussion because it has long term strategic importance.

Lurline Fletcher, 790 Lyman Avenue, said that certain houses on the west side have trash building up and that Waste Pro is not picking up yard trash on Wednesdays. She asked the City to address the situation.

#### **d. Purchasing Policy**

City Manager Knight advised that this policy was put together by staff and Purchasing Manager Carrie Woodell who also serves as current President of the Florida Purchasing Association. Attorney Brown also reviewed the policy and made recommendations to help protect the City against challenges and legal issues. He also noted that Ms. Woodell utilized 11 different purchasing policies from around the state as well as best practices and that this policy is a substantial re-write from the previous policy.

### **Motion by Mayor Bradley to accept the Purchasing Policy; seconded by Commissioner Sprinkel.**

Commissioner Sprinkel asked for clarity regarding Section II, General Guidelines, Category One, Two and Three relative to verbal quotes. Purchasing Manager Carrie Woodell explained that they conducted two surveys in both 2009 and 2011 of 13 different municipalities within the Central Florida area to understand what the threshold amounts are related to when quotes are needed to be obtained and when formal solicitations are needed to be solicited. She said it is very common to acquire verbal quotes up to a certain threshold amount and written quotes for amounts over a certain threshold amount. She advised that we currently require that a record be made for the verbal quotes but typically the City departments fax over a request for quotes so they are currently being returned to the City in written format.

Commissioner McMacken said while going through the edits from Attorney Brown there were several that were not picked up. He asked if these items were included and if so where he could find them and if not, why it was not included. Commissioner McMacken referenced Section 2, General Guidelines, Item d “recommending that the manual include a specific identification of the staff positions who are authorized to purchase at each category, such as Category One and Two, you may want to include Purchasing Director, Department Head, etc. The other two items were in Section 6.03, Limitations, #13 adding “Time is of the essence provision” and the “Most favored nation clause”.

Attorney Brown explained that they provided a redline document and it was their intent to include those items and it was Ms. Woodell's intent to use the redline he provided.

**Mayor Bradley stated that as the maker of the motion he would accept Attorney Brown's language for the 3 items listed above to be included in the main motion; seconded by Commissioner Sprinkel.**

Commissioner McMacken noted that when they are raking a firm they currently do not offer additional credit points for using local businesses and asked if they should include it in the policy. Mayor Bradley said he thinks that item should be included in the RFP process. Commissioner McMacken then asked about Section 14, Procurement of Design Build Services, and if they should include MBE or WBE as part of any other proposal and not just the design build. Ms. Woodell said they typically include language in the construction boiler plate related to minority owned businesses. He referenced Section 15, Professional Services – Financial Auditor and the selection procedures for a financial auditor. Ms. Woodell clarified that we are required to have one Commission member on the Review Selection Committee per City Charter.

Commissioner Cooper referenced Section II, General Guidelines, Item d and recommended the addition of a requirement that the City Manager will make provision for periodic reporting to the City Commission and Mayor of all purchases and the identity of persons who made each purchase (along with a statement of sufficient information indicating the purpose of the acquisition). She also recommended that in lieu of the above report, she would like this information listed on the City's website as an on-going activity and by doing this she would be comfortable doubling the City Manager's signature authority. Assistant City Manager Michelle del Valle stated that the purchasing webpage currently lists the current contracts and bids. Ms. Woodell acknowledged her request and said they could look into putting that information on their webpage. City Manager Knight advised that last year there were only 45 transactions that fell in the \$25,000 to \$50,000 range.

Commissioner Sprinkel recommended including something about buying local in the overarching if it is possible so they do not have to specify it in every document.

**Motion made by Mayor Bradley to include "preference is given to Winter Park firms or businesses that all other purchasing matters are equal"; seconded by Commissioner Sprinkel.**

**Motion amended by Mayor Bradley regarding the RFP process that does two things, that within all RFP's the low and the high scores are thrown out.** City Manager Knight said they changed this so that an individual member of the selection committee ranks the firms from a 1-5 rather than the 0-100 system. **Motion failed for lack of a second.**

**Motion amended by Mayor Bradley on Page 139 to make it an annual review of surplus property; seconded by Commissioner Cooper.**

**Motion amended by Commissioner Cooper that they have monthly reporting.** City Manager Knight said the bi-monthly was in the other policy and the financials was quarterly. **Motion was withdrawn.**

**Upon a roll call vote on the 1st amendment (preference is given to Winter Park firms or businesses that all other purchasing matters are equal); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call vote on the 2nd amendment (on Page 139 to make it an annual review of surplus property); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Upon a roll call on the main motion to accept the Purchasing Policy as amended (Section II, General Guidelines, Item d “recommending that the manual include a specific identification of the staff positions who are authorized to purchase at each category, such as Category One and Two, you may want to include Purchasing Director, Department Head, etc. Section 6.03 Limitations, #13 bullet item adding “Time is of the essence provision” and the “Most favored nation clause”); Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

A recess was taken from 5:32 p.m. to 5:55 p.m.

e. Debt Policy

Financial Director Wes Hamil presented the debt policy.

**Motion made by Mayor Bradley to approve the debt policy, seconded by Commissioner Sprinkel.**

Commissioner McMacken asked about capital leasing, fixed rate debt and compliance reporting. Mr. Hamil and City Manager Knight responded to questions.

Commissioner Cooper asked about reporting practices and addressed the need for information on the website regarding the Electronic Municipal Market Access system. Mr. Hamil stated he could add a line to Section 13, Continuing Disclosure Requirements, describing how to access data. She then requested that debt ratios be looked at on an on-going basis. She spoke about the goal in the policy of 30% for the reserves and that she believed we need measurable benchmarks. Mayor Bradley stated that we should set a financial goal and was not sure what that percentage should be and if factors such as ratings should be part of a debt policy.

Commissioner Cooper read from a publication of the Government Finance Officers Association that “a government should develop distinct policies for general obligation debt, debt supported by revenues of government enterprises and other types of debt such as special assessment bonds, tax increment financing bonds, short term, variable leases and limitations on outstanding debt and minimum debt service should be expressed as ratios.” City Manager Knight stated that debt per capita is the most misused ratio there is and that is why he does not want to see this used. Commissioner Cooper again stressed the need for a debt policy that established debt ratios that are reasonable and can be explained to the citizens. Mayor Bradley reminded the Commission that the citizens voted for the debt we have. City Manager Knight asked if she is referring to putting limits in the policy. Commissioner Cooper explained she is talking about goals and benchmarks. City Manager Knight stated they can report any ratio. She stated she is

not trying to put a limit on debt for future Commissions. She stated this is supported by many agencies. Mr. Knight explained what he meant about the debt per capita ratio being misused and how the ratio can be skewed because of the situation. She believed that providing more education and transparency to the public was a good idea.

Commissioner Cooper stated she is supportive of the general obligation debt level set at 2% and wanted to see this same sort of thing done for other funds as well as the general fund.

She asked that the wording on page 3, under 'g', the last bullet (the use of a fully funded debt service reserve should always be evaluated against the use of a surety or other debt service reserve product) be changed to read: "the use of a fully funded debt service reserve is preferable to the use of a surety or other debt service reserve product." City Manager Knight asked her to explain why this is preferable. She said if you lose the credit rating under surety then you will have to end up having to fund the cash anyway. Mayor Bradley stated the best kind of debt is debt not backed by anything and if people will loan the City money if needed without that, why would they want to have the taxation of Winter Park or something else at risk.

City Manager Knight explained if you fund a debt service reserve you are funding your maximum annual payment you may have to pay so they need to set whatever the amount is aside as our surety for some future payment that we may default on. Using a surety, you are paying a lot less for an insurance policy that says if you do not make a payment, then they step in and make that payment. He stated when you say evaluate, you are going to look at it every time and ask if it makes more sense to bond to set this aside, or is it better to pay a small amount for an insurance premium. He stated that this says whenever you do an issuance you are going to evaluate which one makes the most sense at that time. He stated he would prefer not to change the language because he does not want to tie the City down to something that should be evaluated on a case by case basis.

She then addressed 'h', Bond Insurance, 3<sup>rd</sup> paragraph and the language that says "should be" and that she believed should be made more definitive and should say "must be at least equal to". She commented on 'i', Credit Ratings, and the "should be" included there also. She stated if you cannot get a good rating, then we should question that debt issuance. Finance Director Hamil said not necessarily and explained that you only need to get a rating when you have public offerings and just because it is not rated, does not mean it is a greater credit risk.

Commissioner Cooper spoke about 'k', Tax Status and 'l', Subordinated Debt. She addressed the use of the word "should" again and believed those needed to be fixed. Mayor Bradley explained to Commissioner Cooper that she needs to make these as amendments. Commissioner Leary asked for clarity if they are listening to a long amendment. Commissioner Cooper said 'no' that these are questions she is discussing with Finance Director Hamil. She said she will go back and make amendments to areas she thinks is reasonable.

Mayor Bradley stressed that questions should be done with staff before Commission meetings. Commissioner Cooper stated they were provided with four new policies that impact the City in huge ways and that they did not have a work session on these beforehand. She spoke about her preference for a Financial Advisory Board that would advise the Commission on matters of finance. She continued by saying that untangling a swap agreement cost the City over \$16 million and that her questions are legitimate and will ask them all and when she is finished, she will make an amendment. She stated it is her fiscal responsibility to do that. Mayor Bradley

responded that is well said but they have all read the policy and all received them at the same time and did not know why these questions were not asked before the meeting started today. He asked that the questions be asked in a timely fashion because there are many other items on the agenda that need attention.

**Motion made by Commissioner Cooper that this particular ordinance be tabled until they have an opportunity to meet with our financial advisors and/or a committee of financial advisors. The motion failed for lack of a second.**

Commissioner Cooper then addressed 'o', Refunding Criteria, where it says "the life of the refunding bonds should not exceed the remaining life of the bonds being refunded or the assets financed, whichever is longer" and asked if longer is what they really mean there. David Moore of Public Financial Management (PFM) explained why they recommend using the word "should" throughout because they want to create the ability to move in a certain direction but at the same time allow for the exceptions that come up all the time. He stated the intent is correct as it is written and should not be changed.

She spoke about #7, Method of Sale "the issue is neither too large to be absorbed by the market or too small to attract investors" and asked if we have ever run into a bond being too large to be absorbed by the market. Mr. Moore explained it is unlikely and is a matter of the market. Next, under this section "if conditions for a competitive bond sale are not available, etc." she wanted to add that "staff will document the supporting reasons why a competitive sale cannot be obtained." Mr. Moore stated that those findings are generally required to be made in the financing resolution.

Commissioner Cooper then stated she does not know how to deal with financial advisors not serving as the underwriter and wanted to broaden it to add (p. 6) "they also cannot resign to become an underwriter and cannot terminate their employment and become an underwriter within some fixed period of time". Mayor Bradley stated that is covered in our contract with them. Mr. Hamil verified that was part of the RFP. Commissioner Cooper asked that the policy be beefed up a little.

Under 7 'b', Private Placements, "the City's Financial Advisor will compare the overall costs of a private placement with those of a public offering and recommend the most cost effective approach". She wanted to make sure this was a written recommendation.

Mayor Bradley asked that amendments be made so the Commission is clear and only suggestions are being made at this time and everyone is not sure what to do with them.

Each issue was amended individually as follows:

**Motion amended by Commissioner Cooper that:**

- 1) Where possible change the "should's" to a more directive nature that under item 'g' we state that fully funded debt service reserve is preferable to the use of a surety;**
- 2) Page 5, #7 Method of Sale, to add that staff will document the supporting reasons why a competitive sale (bid) cannot be obtained;**



- 3) Page 6, 2<sup>nd</sup> bullet to include language that prohibits a financial advisor from resigning, quitting or in any manner serving as our underwriter within some fixed period of time (maybe a year or whatever is thought to be reasonable);
- 4) Page 6, 'b', Private Placements, I want to request that a written recommendation is provided from our financial advisor;
- 5) Item 'f', Approvals, (right now it gives total authority to the financial adviser for negotiation) that it says "by the staff assisted by financial advisor";
- 6) Page 8, #10, (Variable Rate Debt Instruments) would like to state a preference for fixed rate debt;
- 7) Page 9, #11, 2<sup>nd</sup> paragraph talks about "utilizing interest rate swap agreements to achieve substantially lower interest rate is a main component in building the desired capital structure" asked to strike that sentence;
- 8) Page 10, 'c', 3rd paragraph, "debt management program" is capitalized and is not a defined term nor is there a particular program that I am aware of and asked to make these non-caps; and next paragraph talks about "various interest rate scenarios shall be updated on a periodic basis" and would like to define a period of time, not less than whatever is reasonable;
- 9) Page 11, 'e', Optional Termination, "the city shall consider including a provision" and wants to change to "the city shall pursue" and make it active instead of just a consideration and would like it to be an objective;
- 10) Page 12, Swap Agreements, are an extremely lucrative product for the industry and wants to see them removed from our policy – they cost the city a lot of money and they make a lot of money for a lot of other people other than the citizens – I appreciate they can save you some money but no one has been able to show us an analysis that shows that in the end they save money;
- 11) #14, Effective Date, GFO best practice recommends that the debt policy be reviewed annually so she wants this changed to annually instead of from time to time. Amendments seconded by Commissioner McMacken.

William Shallcross, 1450 Bonnie Burn Circle, asked when they received the information and spoke about the amount of time the citizens had to sit through this issue with most of it not being understood by the public. Commissioner Cooper apologized.

Larry Williams, Eucalyptus Properties, 300 N. Park Avenue, spoke about it being the right time for Swaps. It was clarified that the Commission approves all debt and that staff cannot enter into any swap whereby all are presented at a public meeting.

Commissioner Leary asked if these amendments are presented as one amendment. Commissioner Cooper requested they be presented separately so people can reject any particular item. Attorney Brown stated we need a second for each motion to amend.

To correspond to the list above, the following action was taken:

- 1) Change the "should's". Motion failed for lack of a second.
- 2) Add that staff will document the supporting reasons why a competitive sale (bid) cannot be obtained. Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes.

- 3) **Prohibits a financial advisor from resigning, quitting or in any manner serving as our underwriter within some fixed period of time. Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes. Mayor Bradley stated he voted against this because it is in their contract.**
- 4) **A written recommendation is provided from our financial advisor. Seconded by Commissioner McMacken. It was clarified by Commissioner Cooper that she wants to make sure the financial advisor recommendations come to them in writing. Motion carried with a 3-2 vote with Mayor Bradley and Commissioner Sprinkel voting no and Commissioners Leary, Cooper and McMacken voting yes.**
- 5) **Approvals to say "by the staff assisted by financial advisor". Motion failed for lack of a second.**
- 6) **State a preference for fixed rate debt. Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes.**
- 7) **Remove master swap agreements. Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes.**
- 8) **"Various interest rate scenarios shall be updated on a periodic basis" and would like to define a period of time, not less than whatever is reasonable. Seconded by Commissioner McMacken. Debt Management Program capitalization failed for lack of a second. Commissioner Cooper asked that a definition of "periodic" be included and that annually is okay. Mr. Hamil commented that the financial advisor will monitor the long and short term interest rates on much more frequently than an annual basis for refunding opportunities, etc. Amendment to the motion was withdrawn by both motioners.**
- 9) **Change to "the city shall pursue" versus consider. Motion failed for lack of a second.**
- 10) **Swap agreement removed. Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes.**
- 11) **Debt policy be reviewed annually. Seconded by Commissioner McMacken. Motion carried with a 4-1 vote with Commissioner Leary voting no and Mayor Bradley and Commissioners Sprinkel, Cooper and McMacken voting yes.**
- 12) **Another amendment was added. Motion amended by Commissioner Cooper (added another one) that indices of benchmarking be added against peer cities and reviewed (debt service to revenues available to pay debt, debt to personal income, debt per capita, debt to property value). Seconded by Commissioner McMacken. Motion failed with a 3-2 vote with Mayor Bradley and Commissioners Leary and Sprinkel voting no and Commissioners Cooper and McMacken voting yes.**

**Motion amended by Commissioner Cooper that affordability of debt report annually to the Commission. Motion failed for lack of second.**

**Motion made by Mayor Bradley to approve the entire policy as amended (a written recommendation is provided from our financial advisor and that the debt policy be reviewed annually); seconded by Commissioner Sprinkel. Upon a roll call vote, Mayor**

**Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

- f. Negotiation and approval of contract with Trane, U.S., Inc. - Guaranteed Energy and Water Savings Performance Contracting Retrofits, using Clean Energy and EECBG Grants and municipal lease purchase

Public Works Director Troy Attaway mentioned that this action follows a previous Board approval of the execution of agreements between the Florida Department of Energy and the City of Winter Park: \$360,207 from the EECBG and \$325,000 from the Clean Energy Grant; a total of \$685,207 grant funding. He explained that they are looking for approval for the City Manager and staff to negotiate a contract and enter into an agreement with Trane U.S. Inc. for the implementation of a Guaranteed Energy and Water Savings Performance Contract for the City facilities. Attorney Brown is comfortable with the language. Mayor Bradley requested that they be able to review the contract prior to the approval/signing. Mr. Attaway acknowledged and noted that the financing of the improvements will be brought back to the City Commission for approval consistent with the exact terms of the contract once negotiated.

**Motion made by Mayor Bradley to ask the City Manager to enter into negotiations with Trane U.S. Inc. and bring them the financing post haste; seconded by Commissioner Cooper.**

Attorney Brown advised that he reviewed this item about a year ago and it is still the case that they are going to piggyback this item off of the Martin County contract which is why there is no formal RFP or bidding process.

John Murphy, unknown address, questioned the available contracts that are in the state and other agencies. He asked that they look around to make sure this is the best one.

**Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- g. City of Winter Park representative to the Tri-County League of Cities

**Motion made by Commissioner McMacken to appoint Commissioner Cooper as City of Winter Park representative to the Tri-County League of Cities; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- h. Amendment of the Holler – Orlando RV Vehicle Sales Agreement

Planning Director Jeff Briggs explained that when the Holler Chevrolet business closed and the properties were largely vacant for three years, the zoning rules (which now prohibit car/vehicle sales on Fairbanks) did not allow any subsequent vehicle sales dealership use to be re-started. Both the Hollers and the City are hopeful that redevelopment will occur on these properties but given the state of the economy those prospects were/are limited. The City was open to restoring vehicle sales on an interim basis but did not want a 15-20 year lease that would discourage the redevelopment we all had hoped for.

In November 2008, the City Commission approved an interim agreement to allow the Orlando RV business to operate at 860 West Fairbanks for up to seven years. Annual extensions are permitted at the City's discretion thereafter. The owners agreed in return to heavily landscape the property and have done so. A year later, the agreement was extended to the former Holler Corvette property at 710 W. Fairbanks Avenue on the corner of Capen and Fairbanks Avenue, subject to the same time limits. It is currently being used for Orlando RV inventory.

This request is to extend the agreement for additional Orlando RV inventory on the former Holler "truck lot" property on the north side of Fairbanks Avenue at 805 W. Fairbanks Avenue, subject to the same time limits and in return for a landscaping upgrade and removal of the chain link fence which has already been done. All three properties would then be on the same time limit schedule.

Mayor Bradley asked for clarity regarding the timeframe. Mr. Briggs said it will be another five years and then they can come back for annual renewal.

Commissioner McMacken asked about the landscape upgrade and if it can be done on both sides of the street and wanted to see what the upgrade is to make sure it is of the same type and scale. Mr. Briggs explained that they are offering to re-landscape the existing islands on the north side and will not create new ones because of the month to month nature of the lease. He said seven (7) gallon, 40 inch hedges to screen the property will be along the road but what you will not get is the signature landscape piece at the corner of Denning.

**Motion made by Commissioner McMacken for the applicant to speak and for approval contingent on the landscape on this side of the property in which they are talking about is comparable to the landscape that is currently existing on this portion of the property as it is a gateway to our City; seconded by Commissioner Cooper.**

Attorney Frank Hamner spoke on behalf of the applicant. He said they will not get the same quality of landscaping that they have on the south side; however, they will get a significant upgrade in the replacement of what was the existing landscaping and the removal of the chain link fence.

**Motion amended by Mayor Bradley that the landscape stands as is in the current agreement that has been brought before them; seconded by Commissioner Leary.**

William Shallcross, 1450 Bonnie Burn Circle, said he would rather see sidewalks installed versus landscaping.

Donna Colado, 327 Beloit Avenue, requested that they do not park the vehicles right to the corner of the property because it inhibits the view of traffic.

**Upon a roll call vote on the amendment (that the landscape stands as is in the current agreement that has been brought before them); Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.**

**Upon a roll call vote on the main motion as amended (that the landscape stands as is in the current agreement that has been brought before them); Mayor Bradley and**

**Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.**

i. Approval of additional architectural plans for the West Fairbanks vision

Planning Director Jeff Briggs provided background information. As part of the Placemakers contract, templates were developed to show with site plans and building elevations, showing how representative properties along the Fairbanks corridor 'could' look as part of the West Fairbanks vision when redeveloped following the provisions of the form based code and the City's comprehensive plan/zoning rules. These plans or templates show the most intense or greatest density of the redevelopment that is possible. They all depict multi-story mixed use building examples, which are what the form based code intends to encourage. They also show the ultimate redevelopment form. The Commission briefly discussed at the last meeting engaging Placemakers to depict some less intense, more interim redevelopment scenarios. Staff is supportive of the suggestion to spend \$10,000 which would provide three more interim templates for the corridor.

Mayor Bradley asked about the form based code and if it includes the maximum build-out. Mr. Briggs said it does. Mayor Bradley asked why we would have to illustrate anything less than that. Mr. Briggs said it will help the current and future property owners relate to more of a real world scenario that they can envision. It will also promote build-out on Fairbanks Avenue.

**Motion made by Commissioner Cooper to approve additional architectural plans for the West Fairbanks vision; seconded by Commissioner Sprinkel.**

Lisa Coney, 1350 West Fairbanks Avenue, said she thinks they are putting the cart before the horse. She would like for the Commission to create a task force to review this and educate the community and property owners so they can see what the form based code includes before implementing it.

Mayor Bradley said he is interested in seeing how they intend to engage the property owners, both through the current process as well as if they expand the process. He asked if staff has a plan for this. Mr. Briggs said there is a plan and there is no moving forward without engagement and participation by the property owners. At this time he does not have the product from Placemakers in a comprehensible manner. He thinks it would probably be a May/June kick-off. Commissioner Leary asked if the EDC plan will be tied into the form based code when it comes time to look at the corridor plans. Mr. Briggs said yes.

Commissioner Cooper asked how much has been spent on drawings for West Fairbanks to date. Mr. Briggs said the original common ground Charette was directed Citywide and it was not focused on West Fairbanks. Placemakers has focused with the \$30,000 contract on the initial deliverables, which was the form based code, the architectural guidelines and the templates for these five individual properties and now they are just supplementing the templates with some other examples.

**Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

A recess was taken at 7:25 p.m. to 7:35 p.m.

j. Hours of sale and consumption of alcoholic beverages

**Motion made by Mayor Bradley that the ordinance which governs (section 10-33 of our sale of alcohol as well as our noise ordinance) be referred to our Economic Development Advisory Board, to our CRA Advisory Board and our Planning and Zoning Commission to create consistency throughout our City. Motion failed for lack of a second.**

Commissioner Cooper shared her concern with the many residents that attended the meeting and recommended that they allow them to speak. She indicated that she did not second the motion because she would prefer to have the citizens speak first. There was consensus to allow for 20 minutes of public comment.

Bill Shallcross, 1450 Bonnie Burn Circle, said there is a public safety issue in terms of underage drinking. He suggested and encouraged a probationary period and asked that they consider a 2:00 a.m. closing for all drinking establishments within the City.

Pastor Dawkins, Warner Chapel Baptist Church, said they are not in favor of extending the hours of alcohol sales in the City. He encouraged more community enhancement and community relations.

Reverend John Williams Senior, Ward Chapel AME Church, asked the Commission to consider the hazards and to keep the City safe by not extending the hours.

Mary Daniels, 650 Canton Avenue, spoke in opposition to extending the hours of alcohol sales in the area of residential homes and churches.

Ernest Manning, 677 Callahan Street, spoke in opposition to the extension of hours for alcohol sales.

Lurline Fletcher, 790 Lyman Avenue, said not only is it a traffic hazard and safety issue, this is a residential area and she does not agree with extending the hours for alcohol sales.

Bernard Hails, 741 Northwood Circle, was opposed to the extension of hours for alcohol sales.

Joe Terranova, 700 Melrose Avenue, said he believes everyone wants the Hannibal Square area to be a restaurant area but the situation has changed now and after 15 years these restrictions need to be lifted.

Kenneth Murrah, 1601 Legion Drive, urged the Commission not to approve the extension of hours.

Ron Benzeev, 1007 Greentree Drive, said the City should be a fair place to live where everyone has the same rules and same playing field. He said right now the Westside does not have that privilege and because of the current rules those businesses have to reject opportunities to earn income and are losing a lot of money. He stated it is not fair especially during these hard economic times.

Sally Flynn, 1400 Highland Road, addressed the promise made to the residents to not allow the extension of alcohol sales in this area and she hoped they do not allow this.

Adam Heath, representing Boathouse Restaurant, said this needs to be looked at since it hinders business for the other local restaurants. They supported extending the hours for the other businesses that have to close earlier.

A.C. Carson, Associate Minister at Bethel Missionary Baptist Church, said that they need to set an example to our young people and not allow this to happen. He opposed the extension and said that nothing good will come of it for the community.

Teri Gagliano, representing of Chez Vincent & Hannibal's, said they would like to have uniform laws Citywide so that everyone is treated fairly especially since they pay the same amount of taxes.

Dan Bellows, 425 West New England Avenue, spoke about the safety, health, morals and the welfare of the community and said there is no distinction between the Hannibal Square businesses and those on Park Avenue or Fairbanks that are in the same proximity to residences and churches.

John Sebastian, 1323 Aloma Avenue, said there is a time for change and now is the time and is very much in favor of the extension.

Vincent Gagliano, Owner of Chez Vincent – Hannibal's, said he has operated his restaurant for over 14 years. He said he could not afford to open his restaurant on Park Avenue so he opened it on the Westside knowing they had a one year probationary period. He added that 14 years later they are still on probation and he feels that they are being punished for a crime that they did not commit. He said they are in the same city and county but there are two different laws and it is not fair that everyone is treated differently.

John Murphy, unknown address, indicated that he does not see a problem with the extension.

Mayor Bradley had concerns with businesses, residents and churches all being treated differently. Commissioner Sprinkel said it is not satisfactory to everyone right now but they need to have a solution that everyone is in agreement with. She recommended working together possibly with a board or a task force so they can reach a solution that everyone is satisfied with. Commissioner Leary said they should welcome and encourage new businesses to the area and indicated there is a noise ordinance that takes care of most of the concerns.

**Motion made by Commissioner Leary to have the Planning Department come back with a more consistent and even handed ordinance to control this across the City; seconded by Mayor Bradley.**

Commissioner McMacken shared his concern with the proximity and uses of restaurants/bars and single family neighborhoods. He said there have been conditional uses with probationary periods for the last 14 years and this is how the City has dealt with the inconsistency of these uses and that is why they have conditional uses. Mayor Bradley said the use of conditional uses has now gotten completely out of hand and they have laws that are not consistent and they need to deal with it. Commissioner Cooper believed there is time for a change but they should not create a bar environment on the Westside and will not be supporting this.



**Motion amended by Commissioner Sprinkel to go back to the Planning Department with the understanding that they work towards a mutually satisfactory condition with all interested parties.** She thinks they are trying to do a black and white version and there has to be some middle ground. She addressed the need to ask others to assist them with creating numerous solutions that model the middle ground and have it come back to them for review. **Seconded by Mayor Bradley.**

Commissioner Sprinkel clarified her motion by saying that they are asking the Planning Department of the City to take on this task with the help of other people that they may want to include in a task force and bring back some recommendations to the Commission.

**Motion amended by Commissioner Cooper that they include representatives of the Ministerial Alliance on the Westside and also Park Plaza. Motion failed for lack of a second.**

Commissioner Leary asked if it would include a group of 10 or more. Mayor Bradley clarified that if this passes staff will enter into a public dialogue with the community, businesses and ministerial associates for numerous solutions and recommendations to choose from. Commissioner Leary wanted to make sure there was clear direction for both staff and City Manager Knight. Mr. Knight acknowledged that it was clear.

**Upon a roll call vote on the amendment (to go back to the Planning Department with the understanding that they work towards a mutually satisfactory condition with all interested parties); Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. Commissioner McMacken voted no. The motion carried with a 4-1 vote.**

**Upon a roll call vote on the main motion as amended (to have the Planning Department come back with a more consistent and even handed ordinance to control this across the City) (to go back to the Planning Department with the understanding that they work towards a mutually satisfactory condition with all interested parties); Mayor Bradley and Commissioners Leary, Sprinkel and Cooper voted yes. Commissioner McMacken voted no. The motion carried with a 4-1 vote.**

A recess was taken at 8:33 p.m. to 8:44 p.m.  
Commissioner Cooper departed the meeting at this time.

k. Community conversations

**Motion made by Mayor Bradley to contract as been suggested for their community conversations which they discussed at the Strategic Planning Session; seconded by Commissioner Sprinkel.**

**Mayor Bradley restated the motion to include the 5<sup>th</sup> session; seconded by Commissioner Leary.**

- Welcome Center; 8:30 am – Noon; target group businesses
- Mt. Vernon Inn; 6:30 pm – 9:30 pm; target group residents at large
- Winter Park Presbyterian Church Social Hall; Saturday 10 am – 1 pm; target group residents at large
- Winter Park Library; 1 pm – 4 pm; target group seniors, businesses, residents

- Possible 5<sup>th</sup> target group; Students/youth; TBD if funded

**Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

Mayor Bradley said he looks forward to staff informing them of the dates and time and even though they said they would like to have these group conversations in May he wants to make sure they give everyone ample notice so that everyone can participate and to allow for proper notification.

I. Approval of agreement with Kulture, LLC – consulting services related to upcoming PERC election

City Manager Knight provided background. The Public Employee Council 79, AFSCME has filed a petition with the Public Employees Relations Commission (PERC) to hold an election to unionize approximately 150 employees in the Public Works, Parks, Fleet Maintenance and Water Utilities Departments. The election will likely be held in June or July. Kulture LLC would assist the city in training and coaching managers and conducting a series of topical small group meetings with the impacted employees.

City Manager Knight advised that they received briefings and advice from the City's Labor Attorney Fawsett and this item is being brought forward with recommendation for approval.

**Motion made by Commissioner McMacken to approve the agreement with Kulture LLC; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

**Public Hearings**

- a. ORDINANCE NO 2840-11: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND RECEIPT OF ANY APPLICATION FOR, OR ISSUANCE OF, BUSINESS TAX RECEIPTS, BUSINESS LICENSURE AND LAND USE APPROVALS FOR THE OPERATION OF "PAIN MANAGEMENT CLINICS" FOR 320 DAYS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE Second Reading

Attorney Brown read the ordinance by title. No public comments were made.

**Motion made by Commissioner McMacken to adopt the ordinance; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

- b. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF THE OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2001, OF THE CITY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM AD VALOREM TAXES

OF THE CITY LEVIED WITHOUT LIMITATION AS TO RATE OR AMOUNT ON ALL TAXABLE PROPERTY IN THE CITY; AND PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. Finance Director Wes Hamil provided background. City Manager Knight explained that this is a refunding opportunity to save money on the bonds that were originally issued to build the Public Safety Building. He indicated that there will be approximately an 8% savings based upon the last calculation they performed.

Jay Glover with Public Financial Management advised that the final maturity is 2021 and they are projecting based on the current market that they could save approximately \$600,000 on a present value basis which equates to about \$65,000 a year through that final maturity.

**Motion made by Commissioner Sprinkel to accept the ordinance on first reading; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES", SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, REVISE THE STANDARDS FOR DRIVE-IN CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS, PROVIDING AN EFFECTIVE DATE. First Reading

**Motion made by Mayor Bradley to table the Advisory Board membership and roles ordinance to the May 9 meeting with some time certainty due to the lateness of the hour; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

- d. Conditional use request for a second story addition onto the existing building at 200 N. Park Avenue zoned C-2 (Quasi-Judicial Hearing)

Planning Director Jeff Briggs explained that was a unanimous recommendation from the Planning and Zoning Commission (P&Z) to approve the conditional use to complete the second floor on the building at 200 N. Park Avenue. He said it comes with 3 conditions from P&Z (the approval permits the second floor addition with or without the balcony/loggia; the applicant to record a binding lot restriction for the remote parking lots to tie them to the main property as the required parking for the second floor addition; and the applicant consider additional landscaping or other methods to soften the blank wall facing Lincoln Avenue.) and it may potentially be used by connecting tenant "C" with the RLF office next door. He said if that is the case this approval would permit a pedestrian bridge across the Center Street alley to connect the two buildings but this is a stand-alone request because that may or may not happen in terms of the lease agreement with RLF. Mayor Bradley asked if the crosswalk meets code. Mr. Briggs said 'yes' it will.

**Motion made by Commissioner Leary to accept the conditional use request as presented; seconded by Mayor Bradley.**

Commissioner McMacken asked for clarity on the motion and if includes the 3 P&Z conditions. Mayor Bradley said yes, as it was presented that way. Commissioner McMacken asked about the additional landscaping and if there is any way to help articulate architecturally the blank wall at this property. Applicant Larry Williams noted that if they were to do a scallop cut out, maybe no more than 12 inches and continue with the bamboo theme in the rear it would look great. Mr. Williams said that landscaping is extremely important to him and they can be assured that he will do it. Commissioner McMacken said anything along that blank wall would be appreciated.

**Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

- e. RESOLUTION NO. 2081-11: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, SUPPORTING SUNRAIL, CENTRAL FLORIDA'S FIRST PASSENGER RAIL PROJECT

Attorney Brown read the resolution by title. No public comments were made.

**Motion made by Commissioner to adopt the resolution and the immediate sending of it to Governor Rick Scott, the Central Florida Rail Commission, the Speaker of the House and the President of the Senate; seconded by Commissioner Leary.**

Commissioner McMacken said there are numerous 'Whereas' clauses in the document. He said these are speculation in his mind and does not mind sending a message that they are supporting it but would like to delete certain items pertaining to the three 'Whereas' clauses regarding the economic impacts analysis and the 'Whereas' clause regarding the implementation of SunRail will result in the overall social and environmental benefits.

**Motion amended by Commissioner McMacken to delete the four 'Whereas' clauses:**

**WHEREAS, an economic impact analysis of the planned system shows more than \$981 million in commercial business sales and 11,523 jobs tied to construction and operation of the system over the next 30 years; and**

**WHEREAS, an economic impact analysis of future transit-oriented development plans along the 61.5 mile system shows such development within a half-mile radius of the station stops is expected to directly account for an additional 38,310 permanent jobs in Orange, Osceola, Seminole and Volusia Counties; and**

**WHEREAS, an economic impact analysis shows a secondary impact, realized when workers spend earnings in the area, is forecasted to exceed \$2.5 billion; and**

**WHEREAS, implementation of SunRail will result in overall social and environmental benefits, improve the quality of life in the state, stimulate economic growth, create new employment opportunities, and serve as a positive growth management catalyst; and**

**Motion failed for lack of a second.**

**Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioner McMacken voted no. The motion carried with a 3-1 vote. (Commissioner Cooper was absent).**

- f. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CONSOLIDATING CITY BOARDS AND COMMISSIONS, DEFINING THE DUTIES OF BOARDS AND COMMISSIONS OF THE CITY OF WINTER PARK, AND REPEALING CERTAIN ORDINANCES AND RESOLUTIONS RELATING TO SUBSIDIARY BOARDS AND COMMISSIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

**Motion made by Mayor Bradley to table the Advisory Board membership and roles ordinance to the May 9 meeting with some time certainty due to the lateness of the hour; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried unanimously with a 4-0 vote. (Commissioner Cooper was absent).**

**Commissioner Reports:**

a. Commissioner Leary

Commissioner Leary said he had the pleasure of starting the Run for the Trees race this past weekend and they had over 1,300 runners and was a wonderful event. He said over the course of the last 19 years they have given away over 15,000 trees netting approximately \$55,000 for the fund. He said it was a great race and thanked the staff for their outstanding efforts.

b. Commissioner Sprinkel

1. Commissioner Sprinkel said it was a pleasure to start the 57th Easter egg hunt last week and it was a great event.

2. Commissioner Sprinkel informed everyone that when she receives the agenda packet if she has questions she calls staff right away to ask her questions. She suggested that the other Commissioners do the same thing and to contact staff before the meetings if they have any questions.

3. Commissioner Sprinkel said she asked Attorney Brown about the new Purchasing Policy pertaining to the procurement. She said he explained that the CRA does not follow the same policy as the rest of the City and although they oversee them, it makes no sense that the CRA is not a part of it. She said she would like a little more understanding and to formalize that process so that the CRA is required to somehow follow the same policies that are in place for procurement.

Attorney Brown clarified and said the statute that authorizes the CRA provides that if the City establishes the CRA it is a separate entity. He said the purchasing manual now provides that all purchases that the CRA brings to the City must be accomplished pursuant to the procurement practices of the City so if the CRA is going to use City staff then it will abide by City procurement practices. He said to close that loop, the Commission controls the CRA so when they are meeting as a CRA if that separate agency wants to implement a policy that requires all of the CRA purchasing to go through the City then they have closed the loop.

Mayor Bradley agreed and said they need to ask the CRA Agency Board to address the procurement policies. He also said that he is not sure if it includes the Debt Policy or not. Attorney Brown said it could. There was consensus for this to be addressed by the CRA Agency Board. The request was acknowledged.

4. Commissioner Sprinkel said she is honored to participate in the Super Regional Conference in Tampa this weekend and she will bring back anything worthwhile to the group.

5. Commissioner Sprinkel spoke about the numerous emails she received from a number of residents concerning tonight's current agenda items and that she did not understand why or where this information was coming from especially because some of the information was inaccurate. She advised that each of them need to be more aware of what they send out and to be sure it is accurate information. She stated that as a group they need to be more careful about what they send out and when they send it out because right now there are some people in the public sector that have some information that is not accurate. She recommended as a group to be aware that they should not just send stuff out until they have massaged it, looked at it and reviewed it more carefully before it goes out.

c. Commissioner Cooper

Not present.

d. Commissioner McMacken

1. Commissioner McMacken mentioned that 10th Dinner on the Avenue was such a huge hit once again and agreed that they could use another block since it draws so many people. There was consensus to have staff look into this and to include the merchants in any discussions. There was also consensus that in the future when we are advertising the "Dinner on the Avenue" event that the Communications Department also advertise "Bring a can donation" to encourage more people to participate by bringing a can of food to the event.

2. Commissioner McMacken wanted to follow up on Mead Gardens and the long term governance issue and how the money is being spent. He requested that this issue come back to them even if it comes back as a recommendation from the Parks Department. Mr. Holland acknowledged.

e. Mayor Bradley

1. Refer to the Ethics Board a Resolution governing the conduct of Winter Park elections

Mayor Bradley said approximately four years ago the Winter Park Chamber of Commerce adopted a statement on the Ethical and Civil Conduct Practices for elections (attached). He was intrigued by it and proposed to ask the Ethics Board to review this as a potential document along other documents that the City Attorney may provide and determine if there is a support for a civility code that would govern the communication discussion of debate in the City. There was consensus to have this done with no time certainty.

2. City Commission communication and e-mail newsletters to citizens

Mayor Bradley said based on recent City Commissioners sending out emails he suggested having a declaration under it that says "this is one person's view." He said he certainly does not want to stop this but in fairness the email should come from all of the Commissioners and/or the other Commissioners should have access to that same email contact list should they desire to do the same thing. City Manager Knight asked for clarity.

Mayor Bradley explained if a Commissioner chooses to send out a synopsis of the Commission meeting with their opinions/views using his or her email address that the other Commissioners should be able to use the same email contact list. City Manager Knight indicated that the email list he is referring to is not a City email contact list and noted that there has already been a public records request for those email addresses which has been provided. Mayor Bradley asked if a Commissioner wanted that same email list if they can request that information from him. City Manager Knight said 'yes'.

Attorney Brown clarified that the email list is part of a public record so any Commissioner or citizen can obtain that email distribution list. He reminded them that whatever they send out as a Commissioner is public record. Attorney Brown said the Charter says that an individual Commissioner cannot direct staff to do work, they can seek out information and they could give advice. Certainly individual Commissioners have the right on their own facilities to send out public record communications. He said typically you would require them to include the disclaimer that they are not speaking on behalf of the City or the Commission, but are speaking individually.

Mayor Bradley indicated that he is interested in some specific communications from a Commissioner and other Commissioners that he believes if it discusses how they are going to vote in the future on an issue is probably a violation of the Sunshine law and maybe even campaign violations. Attorney Brown said that an elected member of a collegial body can send email communications to other members, the Sunshine violation arises when they respond; this is clearly not best practice.

Mayor Bradley asked Attorney Brown to look specifically at the communications from Commissioner Cooper and if there is a specific way that this can be done so that all of the Commissioners can have access to that information. If that is not possible, then Attorney Brown needs to have some individual communications with each of them regarding what they should and should not be doing to protect all of them from violations of the Sunshine Law including Commissioner Cooper. Attorney Brown acknowledged.

3. Policy regarding citizen and board member enforcement of municipal code

Mayor Bradley asked that a policy or resolution regarding citizen and board member enforcement and communications for board members be drafted. He said apparently the letter that City Manager Knight sent out did not communicate its intended consequences. City Manager Knight said this item can be included in the forthcoming Board ordinance as a part of the policy. There was consensus to bring forth as a resolution for review.

The meeting adjourned at 9:24 p.m.

ATTEST:

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Mayor Kenneth W. Bradley

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City Clerk Cynthia S. Bonham





# city commission agenda item

item type	Consent Agenda	meeting date	May 9, 2011
prepared by department division	Purchasing Division	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

## subject

IFB-15-2011 Purchase of Clay Street Brick Pavers

## motion | recommendation

Commission approve award to Brick America

## Background

This contract will be used throughout the City for paving of brick roadways and streetscape enhancements projects.

On March 17, 2011 the IFB was issued;

On April 13, 2011 a public opening of bids received was conducted. Two (2) bids were received and acknowledged.

Bid tabulation is as follows:

	Brick America	Florida Silica Sand Company
Old Barcelona 2 3/8" Crimson Tumbled	\$0.58	\$0.62
Old Barcelona 2 3/8" Crimson Non-Tumbled (Square)	\$0.58	\$0.00
Old Barcelona 2 3/8" Antique Tumbled	\$0.58	\$0.62
Old Barcelona 2 3/8" Antique Non-Tumbled (Square)	\$0.58	\$0.00
Boral 2 1/4" Heartland Red Flashed Tumbled	\$0.65	\$0.00
Boral 2 1/4" Heartland Red Flashed Non-Tumbled (Square)	\$0.52	\$0.00
Boral 2 1/4" Bourbon Street Tumbled	\$0.69	\$0.00

Boral 2 ¼" Bourbon Street Non-Tumbled (Square)	\$0.55	\$0.00
Agree to furnish the required bricks within 21 days or less from receipt of order	X	
Can furnish the complete order with stated calendar days after receipt of order		39
NOTES	Did not bid all items	

## alternatives | other considerations

Other bids received

## fiscal impact

Various budgeted City construction projects.

## strategic objective

Quality facilities and infrastructure



# city commission agenda item

<b>item type</b>	Consent Agenda	<b>meeting date</b>	May 9, 2011
<b>prepared by department division</b>	Purchasing Division	<b>approved by</b>	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
<b>board approval</b>	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		<b>final vote</b>

## Purchases over \$50,000

	vendor	item   background	fiscal impact	motion   recommendation
1.	Hufcor Florida Group	Owner direct purchase of smoke and fire curtain for Community Center	Total expenditure is included in the approved project budget. Amount: \$56,515.20	Commission approve PR 146628 to Hufcor Florida Group for the owner direct purchase of smoke and fire curtain for the Community Center
Competitive procurement occurred during the selection process (RFQ-17-2009). Turner Construction Company competitively solicited pricing for various trades and suppliers. This owner direct purchase will result in sales tax savings.				

## Contracts

	vendor	item   background	fiscal impact	motion   recommendation
2.	Turner Construction Company	Deduct Change Order COR-017 to Community Center (RFQ-17-2009)	Deduct of \$735,625.91 against the contract price	Commission approve Deduct Change Order COR-011 to Community Center contract (RFQ-17-2009) with Turner Construction Company and authorize the Mayor to execute the change order document
The City contracted with Turner Construction Company for the Design-Build of Winter Park Community Center on August 24, 2009. This deduct change order of \$735,625.91 from the contract price is a result of owner direct purchases.				
3.	CenturyLink Sales Solutions, Inc.	Products and Services Agreement to Replace an Existing Telecommunications Circuit	Decrease the monthly circuit invoice by \$1,731	Commission approve the Products and Services Agreement with CenturyLink Sales Solutions, Inc. and authorize the Mayor to execute the agreement
The proposed system from CenturyLink replaces the current circuit with a less expensive solution that meets all the requirements of the needed services.				
4.	CH2M Hill	Task Order 2010-01 Amendment 1, Fairbanks Corridor Wastewater Collection & Transmission System Re-Design	Because the removal of the medians and the associated changes to the design drawings, MOT, and permitting are all	Commission approve Task Order 2010-01 Amendment 1 to CH2M Hill and authorize the Mayor to execute the Amendment.

			part of the beautification portion of the project, the fiscal impact of the change will be borne by the General Fund. Amount: \$57,690	
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# city commission agenda item

item type	Consent Agenda	meeting date	May 9, 2011
prepared by department division	John Holland Parks and Recreation Department Administration	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Parks and Recreation Commission	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	6-0 final vote

## subject

Mead Garden Upper Terrace Plan Approval

## motion | recommendation

Motion to approve the conceptual plans of the upper terrace patio development and recommend proceeding with the construction and development of the approved Terrace area with \$35,000 of grant funding as presented and approved by the City Commission during the April 11<sup>th</sup>, 2011 Commission meeting.

## background

During the April 11<sup>th</sup>, 2011 City Commission meeting the Friends of Mead Botanical Garden, Inc. and the Parks and Recreation Department presented recommendations for adjustments, improvements and implementation of design elements in the Mead Garden Master Plan as developed by PBS&J in 2007. The City Commission approved the requests and recommendations of the Parks and Recreation Advisory Board, the Parks and Recreation Department and the Friends of Mead Garden.

As part of the process moving forward, more specific and detailed plans were to be provided to the Parks and Recreation Advisory Board and the City Commission as they are developed as progress is made toward construction of the Terrace area. These plans and requested approval are part of that process.

The upper terrace patio plans were presented to the Parks and Recreation Advisory Board during the April 27<sup>th</sup>, 2011 meeting. The Board approved the plans and recommended proceeding with City Commission approval to begin construction.

The Commission approved presentation for the Mead Garden renovations were shown in many public meetings for stakeholders groups, organizations and the neighboring residents including both the Mead Garden Condominiums and Winter Park Garden Condo's. The response has been very favorable toward the plans and re-establishment of the historical Mead Botanical Garden.

The \$35,000 funding for this project will be provided by the \$150,000 Winderweede, Haines, Ward and Woodman donation toward the Master Plan improvements.

## **alternatives | other considerations**

Alternatives and other considerations at this time would impact the proposed development/construction schedule and jeopardize availability of the area for scheduled summer environmental camps and programming.

## **fiscal impact**

Funding for the proposed renovations and capital improvements are to be paid for by public and private grants and donations to the Friends of Mead Gardens, Inc. and donated funds from Winderweede, Haines, Ward and Woodman (\$150,000). Any additional City funding for these improvements would be subject to the next annual budget process with City Commission approval.

## **long-term impact**

These improvements to Mead Garden are part of the Master Plan and are being carefully evaluated for self sustainability, revenue generation and historical re-establishment of Mead Botanical obligations of the deed restrictions.

## **strategic objective**

Provide quality infrastructure.



Submittal to the

# CITY OF WINTER PARK

Parks and Recreation Department and Commission

FRIENDS OF MEAD GARDEN  
April 18, 2011

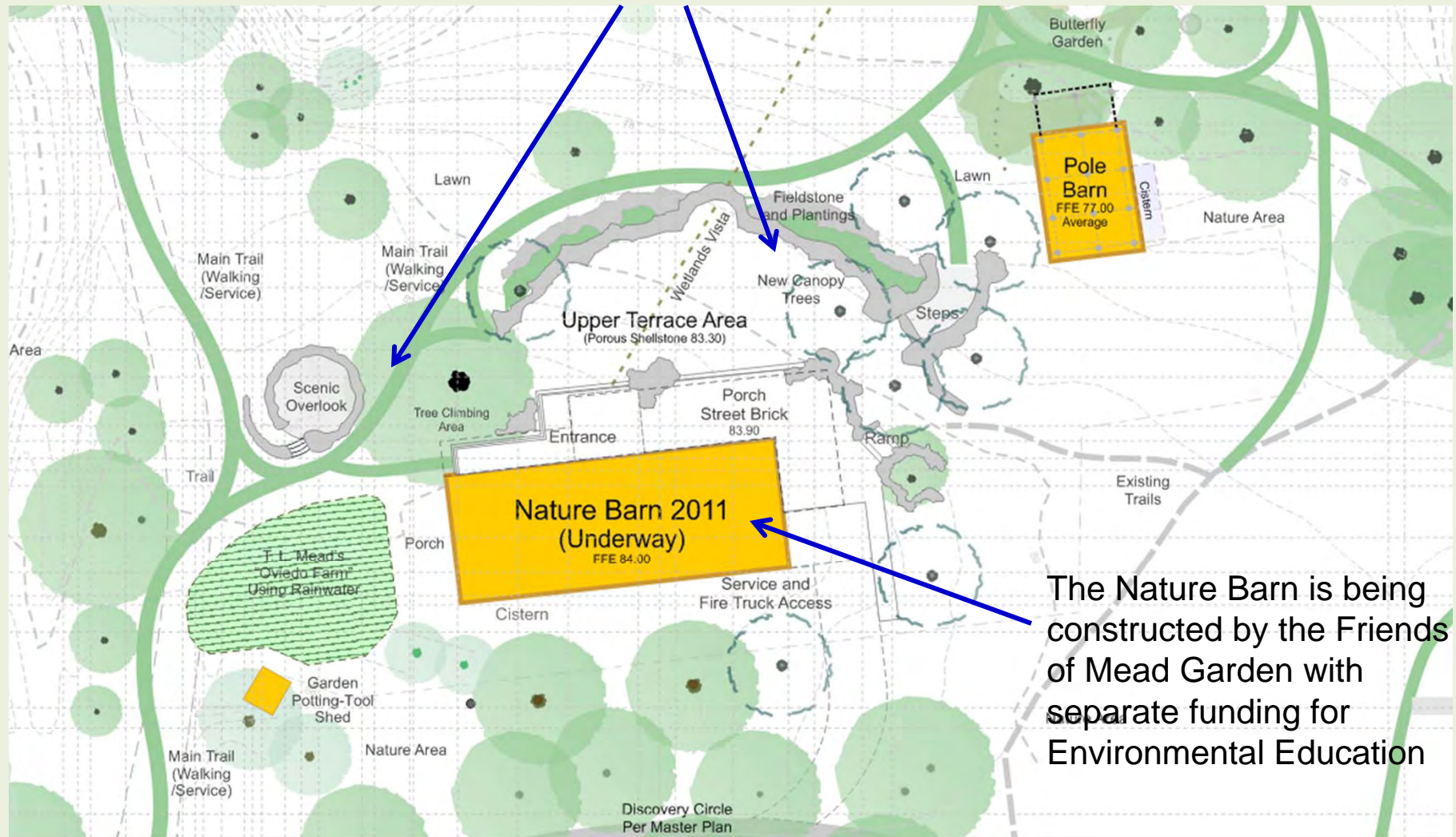
**Request:** construct the Upper Terrace Area around the Nature Barn for summer 2011 Camp



Trails (green) are porous shellstone or mulch

**Upper Terrace Area**  
(surrounds the barn)

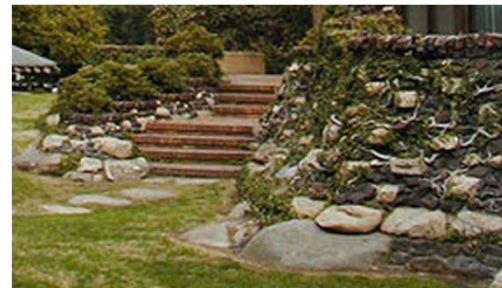
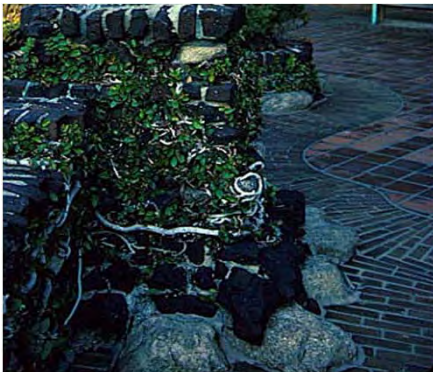
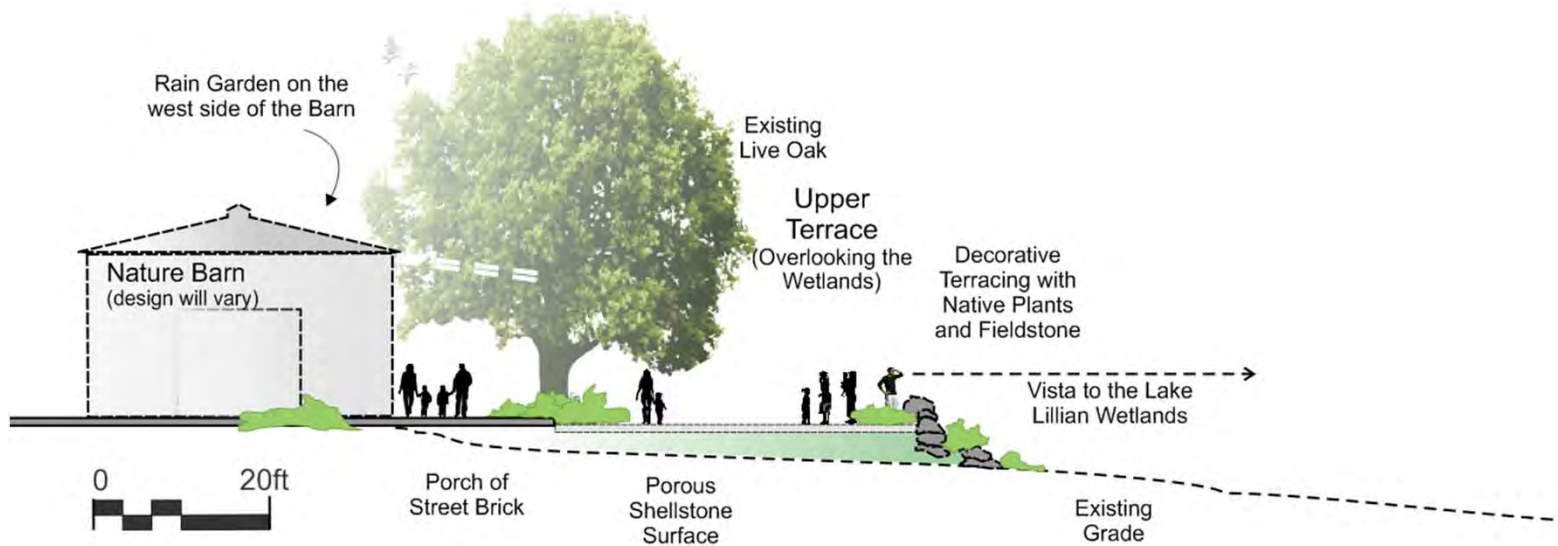
Trails (green) connecting the Butterfly Garden and Wetlands



The Nature Barn is being constructed by the Friends of Mead Garden with separate funding for Environmental Education



## Upper Terrace Area Section (surrounds the barn)



General  
character



# city commission agenda item

item type	Consent Agenda	meeting date	May 9, 2011
prepared by department division	Deputy Chief McCabe	approved by	<input type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A		
		final vote	

## Subject

Inter-local Aid Agreement and Haz-Mat MOU with City of Orlando Fire Department.

## Motion | Recommendation- " Approval"

Motion to enter into Interlocal Aid Agreement with City of Orlando Fire Department and authorize the Mayor to sign the Agreement.

## Background

These documents specify the level of cooperation between our two cities for the seamless delivery of emergency response.

## Alternatives

This is an ongoing agreement which is renewed every five years.

## Fiscal impact- None

## Strategic Objective

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN:**  
**The City of Winter Park Fire-Rescue Department**  
**The City of Orlando Fire Department**

**Special Operations Response and Training**

This Memorandum of Understanding, (hereinafter referred to as "MOU" or "Agreement") between the City of Winter Park Fire Rescue Department ("WPFRD") and the City of Orlando Fire Department ("OFD") hereinafter known collectively as the "Parties," for the purpose of developing a special operations response and training system.

**Purpose and Mission:**

The purpose of this MOU is to formalize the concept of the Parties regarding the response for special operations emergencies by the OFD into the jurisdiction legally established as the municipal boundaries of the City of Winter Park, in which the WPFRD provides emergency services, as well as the concept of the OFD providing credible, validated special operations training to and with the personnel within the WPFRD organization to a level set forth and agreed upon by the Parties. The Parties recognize that under current Mutual Aid agreements between the WPFRD and the OFD, inclusion for the response to special operations incidents by the OFD into the WPFRD jurisdiction is understood. This MOU is established to better formulate the response of the OFD into the WPFRD jurisdiction as the "first call" agency when deemed necessary by the Incident Commander.

**Definition**

The applied definition for "Special Operations" contain within this MOU include the following services and training disciplines:

- Hazardous Materials
- Technical Rescue to include Confined Space, Trench, High Angle, Collapse and Dive Rescues.

**Termination, Duration, and Revision**

Either party may terminate this Agreement by written notice. This agreement shall be terminated thirty (30) days after receiving written notice of cancellation from the Orlando Fire Department or the Winter Park Fire Rescue Department.

This agreement shall become effective upon the date of the last party to execute this Agreement and shall continue until such time as terminated by either party or until such time as it is revised.

City Council Meeting: 4-11-11  
Item: E-1 Documentary: 110411 EOI

Providing that this MOU is not terminated as stated above, the Parties agree to address the various sections of the MOU and revise if needed. Revision of the MOU will require the same signatory actions as the original. Until such time as a revised MOU commences, the original or latest version shall remain in force.

### **Conflict Resolution**

In the event that a conflict arises during the time this MOU is in force, the Parties understand that attempts to resolve said conflict shall start with the designated Operational Managers as describe in each section. Upon determination that said conflict can not or is not resolved, attempts to resolve said conflict shall then go to the Fire Chief or Chief Executive of each agency.

### **Liability**

The Parties agree that no agency will be considered the agent of the other for civil liability purposes. Each party shall be responsible for the acts, omission, and conduct of its agents, employees, and appointees that occur while said persons are engaged in providing services pursuant to this agreement, subject to the provisions of Florida Statute 768.28, where applicable.

### **Special Operations Response**

### **Management**

The Fire Chiefs or otherwise designated Chief Executive representing each agency encompassed within the Parties will designate an Operational Manager to represent his/her agency for the purpose of implementing this section of the MOU. Said Operational Managers will be empowered to set specific guidelines or policies for response within the spirit of the MOU.

### **Response Request**

In the event that the WPFRD responds to a special operations type event within its jurisdiction and it is determined by the Incident Commander that the type and/or magnitude of the event is beyond the means of the resources held by the WPFRD, the Incident Commander will request a response from the OFD for resources to assist in the containment and/or mitigation of the special operations event. Resources sent by the OFD will be at the discretion of the sending agency and shall be based on the type and magnitude of the event.

### **Availability**

In the event the OFD is not available to respond to the request of the WPFRD, the WPFRD through its established guidelines will request a response from other agencies as stipulated with any and all inter-local agreements.

## **Operational Management**

Unless "Command" is expressly transferred to an OFD representative, the WPFRD Incident Commander will maintain command and control of the special operations event to which OFD responds. Upon arrival at the event, OFD personnel will meet with the Incident Commander to better ascertain the particulars of the event and to better formulate the mitigation of the event. OFD Command Staff who respond with other resources sent by OFD will liaison with the Incident Commander.

Until such time as the National Incident Management System (NIMS) is adopted and implemented by the Parties, special operations incidents to which the Parties respond within the jurisdiction of the WPFRD will operate under an understood Incident Management System (IMS) as established by guidelines or policies of the Parties.

## **Reimbursement**

The Parties agree that costs incurred for personnel and equipment shall be borne by the respective agency. In the event that reimbursement is sought by the WPFRD for an event occurring within the jurisdiction of the WPFRD, the OFD will provide detailed cost statements for equipment and personnel supplied for event containment and mitigation. The WPFRD shall act as the billing agent for the Parties for events stated above. Reimbursement to the OFD will occur upon collection of the billing and based on the detailed billing statements produced.

## **Special Operations Training**

### **Management**

The Fire Chiefs or otherwise designated Chief Executive representing each agency encompassed within the Parties will designate an Operational Manager to represent his/her agency for the purpose of implementing this section of the MOU. Said Operational Managers will be empowered to set specific guidelines or policies for special operations training within the spirit of the MOU. Additionally, the Operational Managers will be responsible to communicate, liaison and set the training goals, objectives and plans relative to the training received by the WPFRD. This shall be applicable also to training events that are not delivered specifically by either of the Parties, but rather, is considered a joint-training event.

### **Training Delivery**

Training curriculum for all special operations levels shall meet an industry standard and shall be validated for accuracy. The Operational Managers representing the Parties will agree on the specific curriculum and required contact hours for the various levels of training.

If the OFD is the "Trainer" for specific curriculum, it has the option of contracting with other training facilities provided said training facilities are recognized by the State of Florida Department of Education

**Costs**

The WPFRD will cover all costs for special operations training as stipulated by the OFD as trainer. The Operational Managers will discuss all costs to be incurred and the Operational Manager of the WPFRD will secure approval for expenditure of funds prior to training taking place.

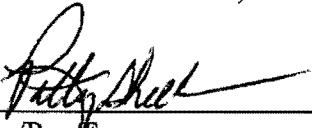
For training events considered joint training when neither of the Parties is designated as trainer, costs relative to the joint training shall be borne independently by each single party based on its own expense. Shared costs shall be borne in an equal manner.

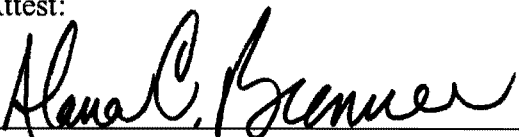
**IN WITNESS WHEREOF**, the parties have executed this Agreement in manner and form sufficient to bind them as of the day and year first above written.

**CITY OF WINTER PARK, FLORIDA**

ATTEST: \_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CITY OF ORLANDO, FLORIDA**

By:   
Mayor/Pro Tem  
Date: 4/18/11

Attest:  
  
Alana C. Brenner, City Clerk

Approved As To Form And Legality  
(for the use and reliance of the  
City of Orlando, Florida only)

April 14, 2011

William T. Huber

Assistant City Attorney



# city commission agenda item

item type	Action Item Requiring Discussion	meeting date	May 9, 2011
prepared by department division	Economic Development/CRA	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Economic Development Advisory Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	6-0 final vote

## subject

Modifications to City Banner Policy

## motion | recommendation

Motion to approve the banner policy revisions and fee structure.

## background

With many of the new streetscapes implemented throughout Winter Park in the last few years, most of the major commercial corridors in Winter Park now have light poles capable of hanging promotional banners advertising major events.

The banner policy has traditionally been under the purview of the Parks and Recreation Department as it related primarily to banner treatments next to Central Park. With banners now able to be hung on Orange, New England, Pennsylvania, Park, and all of Morse Blvd, the Parks Board voted to turn over the Banner Policy and implementation to the Economic Development/CRA Department. The Economic Development/CRA Department works closely with all the city's major non-profit organizations and promotional events as an ombudsman to facilitate activities that will drive awareness of the city, create vibrancy, and celebrate the culture, heritage, and brand of Winter Park.

Based on a thorough review of the current policy and evaluating other jurisdiction's policies, staff recommends the following changes in the proposed banner policy:

### Eligible Applicants:

This is largely left unchanged but clarifies who is able to apply. Deference is given to the City and long standing events. Other eligible applicants could include non-profits and significant special events. Commercialization of banners by outside sponsors will continue to not be allowed.

### Approvals:

In the past any banner applicant including those that have traditionally displayed banners at long standing events (Morse Museum, Art Festivals, Cornell Museum, Bach Festival, etc) had to get approval from the Parks Board. Staff is requesting that the banner policy be approved that allows the Economic Development Director to approve applications similar to how most programs and special event permits are already handled by in-house staff. This will shorten the application approval process and allow the permitting of banners to become part of the special event process where applicable without the requirement of convening a board.



**Fees:**

Currently the fees for hanging banners vary by district from either a flat \$200 to hang 32 banners on Park Ave, or at a \$6-8 dollars per banner charge on other streets. This represents a substantial subsidy to what it costs the City to actually hang the banners based on average time to hang a banner (20 minutes) employee overtime, and additional funding for overhead and capital maintenance. Staff has estimated banner hanging costs at closer to \$30 per banner including both install and take-down. Staff is recommending a modification in this fee to cover these costs. While staff recognizes that this is a 4 fold increase in the fees traditionally paid, it is necessary to cover the cost of installation and removal. Staff did pursue a private provider for this service, but found that it was higher than using City services. Staff recommends continuing to use City staff at this time but will continue to explore other options.

**Banner Districts:**

Staff has divided major corridors into banner districts that allow applicants to choose where they want banners. This will allow applicants to minimize cost by choosing areas closest to the event but still representing a large enough area as to make sure that banner coverage appears uniform. This will also allow flexibility when major events occur on overlapping dates so that events can share portions of corridors. Available districts are listed on the attached application form.

**Applications:**

The application packet will now include a revised application form, maps of the districts available and banner pole locations, as well as templates with correct measurements for each type of banner to be installed. Staff is currently in the process of finalizing banner sizing for each pole type.

**Exception:**

In evaluating current banner policy and placement along Park Avenue, staff is recommending one exception be granted to the Morse Museum. This museum brings in over 80,000 people annually to view its exhibits. This number is expected to increase with the opening of the new Tiffany exhibit and the expansion of the facilities. The Morse Museum has six poles in front of its location. Given the amount of annual visitors to this location and the limited placement of the poles in front of the building, staff is recommending that the Morse Museum be permitted to display banners relating to its exhibits year-round. Staff would require that the Morse Museum submit banners for approval and a fee would be paid to remove and rehang the banners. No other banners would be permitted on these poles for any other events around the City. While this would create a slightly different appearance on North Park Avenue, it does reflect an approach to wayfinding for the Museum and the unique tourism destination that it has become along Park Avenue.

The Economic Development Advisory Board reviewed the banner policy and fee structure and unanimously recommended approval.

**alternatives | other considerations**

Continue to subsidize fees associated with installation and removal.

**fiscal impact**

Program as presented will fund capital, operations, and maintenance through the revised fee structure.

**long-term impact**

To establish an efficient, equitable, financially secure citywide banner policy.

**strategic objective**

Achieve financial security through good government practices



Economic Development Department  
401 Park Avenue South  
Winter Park, FL 32789  
Phone: 407-599-3695  
Fax: 407-599-3499  
www.cityofwinterpark.com

# Special Event Banner Policy

The City of Winter Park established the Special Event Banner Program to enhance the City's visual appearance and sense of vitality through the use of specially located banner poles. These banners may be used by organizations and groups wishing to publicize community events and activities considered appropriate by the City.

## **ELIGIBLE ACTIVITIES**

Applications will only be allowed for city events, not-for-profit community events, and significant events. Significant events are considered to be any event that may bring more than 2,000 individuals to the area. Eligible events must promote the culture, history, health, safety, or general welfare of the City of Winter Park.

## **APPLICATION PROCESS**

All applications must be submitted to the Economic Development/CRA Department for approval. The department will reserve the dates only after an **application** has been accepted. Applications shall be submitted at least 45 days in advance of the desired display date and must be accompanied by full detail of the proposed display, including a drawing of each separate banner design. **The applicant should not start banner construction until receiving design approval from the Economic Development Department.** Banners will not be permitted for more than 30 days and will be removed within five (5) business days after the desired display end date. If approved, applicants must drop off banners a week before desired display date. Applicants must pick up their banners within five (5) business days after removal.

## **DESIGN GUIDELINES**

Banners must be made from non-combustible material that will not shred and that is weather-proof. We recommend strong colorful graphics, concise wording that can easily be read by motorist and pedestrians. All banner designs are to be approved prior to production by the City's Economic Development Director. Applicant's logo may be posted on the banners. Banner will not contain any commercial or outside sponsorships, election advertising, tobacco or alcohol advertising. The City will not install any banners which fail to comply with the design guidelines or which have not been made in accordance with design specifications.

## **FEES**

Applicant's total payment will be based according to the selected streets or districts. Fees are based on the City's cost of \$30.00 per banner for the installation and removal of banner signs. Banners locations are divided by streets and area. All fees are due with the application. Dates will be booked at the time of application and fees received by the City. No dates will be reserved in advance of payment.

<b>North Park Avenue .....</b>	<b>\$510.00</b>	<i>(Morse Boulevard to Webster Avenue, 17 poles)</i>
<b>South Park Avenue .....</b>	<b>\$480.00</b>	<i>(Fairbanks Avenue to Morse Boulevard, 16 poles)</i>
<b>East Morse Boulevard.....</b>	<b>\$600.00</b>	<i>(US17-92 to Pennsylvania Avenue, 10 double-sided poles)</i>
<b>West Morse Boulevard.....</b>	<b>\$660.00</b>	<i>(Pennsylvania Avenue to Interlachen Avenue, 11 double-sided poles)</i>
<b>New England Avenue.....</b>	<b>\$480.00</b>	<i>(New York Avenue to Hannibal Square West)</i>
<b>Pennsylvania Avenue.....</b>	<b>\$780.00</b>	<i>(Lyman Avenue to Israel Simpson Court)</i>
<b>North Orange Avenue.....</b>	<b>\$600.00</b>	<i>(Fairbanks Avenue to Minnesota Avenue, 20 poles)</i>
<b>South Orange Avenue.....</b>	<b>\$600.00</b>	<i>(Denning Drive to US17-92, 20 poles)</i>

## **BANNER POLE LOCATIONS AND SPECIFICATIONS**

The City has permanent street banner pole hardware available at the following locations:

### **Park Avenue**

Total number of banner poles: 33 single-arm poles

Total flat banner size: 23" x 42.5"

Image area: 23" x 36"

### **Morse Boulevard**

Total number of banner poles: 21 double-arm poles (42 banners total)

Total flat banner size: XX" x XXX"

Image area: XX" x XX"

### **New England Avenue**

Total number of banner poles: 16 single-arm poles

Total flat banner size: 23" x 42.5"

Image area: 23" x 36"

### **Pennsylvania Avenue**

Total number of banner poles: 26 single-arm poles

Total flat banner size: 23" x 42.5"

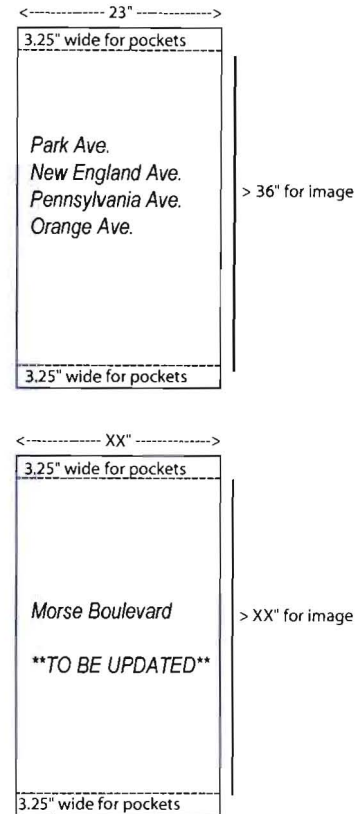
Image area: 23" x 36"

### **Orange Avenue**

Total number of banner poles: 40 single-arm poles

Total flat banner size: 23" x 42.5"

Image area: 23" x 36"



## **AVAILABILITY**

The Economic Development Department is the initial contact for Special Event Banner Policy. The department will keep a calendar of scheduled installations and their locations. The Economic Development Department Director will review banner applications when submitted. Banner applicants will be approved on a "first come, first serve" basis. City events and applicants submitting for regularly scheduled annual events will have first priority.

## **LIABILITY**

The applicant must acknowledge and accept full responsibility for public risk. The City, or any division of the City, shall not be held responsible for any damage to the banners due to installation, removal, or storage.

Guidelines and application are available online at [www.cityofwinterpark.org](http://www.cityofwinterpark.org) > Departments > Economic Development/CRA Department or by calling 407-599-3695.

**Submit applications to:** Economic Development/CRA Department  
Attention: Special Event Banner Program  
401 Park Avenue South  
Winter Park, FL 32789





Economic Development Department  
401 Park Avenue South  
Winter Park, FL 32789  
Phone: 407-599-3695  
Fax: 407-599-3499  
www.cityofwinterpark.com

## Special Event Banner Application

Organization Name:

Contact Person:

Address:

City, State, Zip Code:

Phone:  Fax:  Email:

Event Name:  Event Date(s):

Dates Requested for Banners:  to

Describe the type of event:

### Banner Location:

- |  |           |   |           |
|--|-----------|---|-----------|
| <input type="radio"/> North Park Avenue    | \$ 510.00 | <input type="radio"/> New England Boulevard | \$ 480.00 |
| <input type="radio"/> South Park Avenue    | \$ 480.00 | <input type="radio"/> Pennsylvania Avenue   | \$ 780.00 |
| <input type="radio"/> East Morse Boulevard | \$ 600.00 | <input type="radio"/> North Orange Avenue   | \$ 600.00 |
| <input type="radio"/> West Morse Boulevard | \$ 660.00 | <input type="radio"/> South Orange Avenue   | \$ 600.00 |

Total Amount Due \$

On behalf of the organization listed above, I, as applicant, hereby acknowledge that I have read and understand the Banner Policy Guidelines. The applicant/organization agrees to indemnify and hold harmless the City of Winter Park, its agents, officers, and employees from and against all loss, costs, expenses including suits, demands, claims, judgements, liens, attorney's fees in connection with injury to or death of any person or persons or loss of or damage to property resulting from any and all operations performed by or through this application.

The City of Winter Park reserves the right to deny banner placement for any organization or event. Once approved, applicant must schedule a drop date with the Economic Development Department. Banners are only hanged on Tuesday, Wednesdays, and Thursdays. I understand that banners must be picked up within five (5) business days after removal. The City, or any division of the City, shall not be held responsible for any damage to the banners due to installation, removal, or storage. The City has the right to dispose of the banners after the set deadline at no cost to the City.

Organization Representative Signature \_\_\_\_\_

Date \_\_\_\_\_

### City Use Only

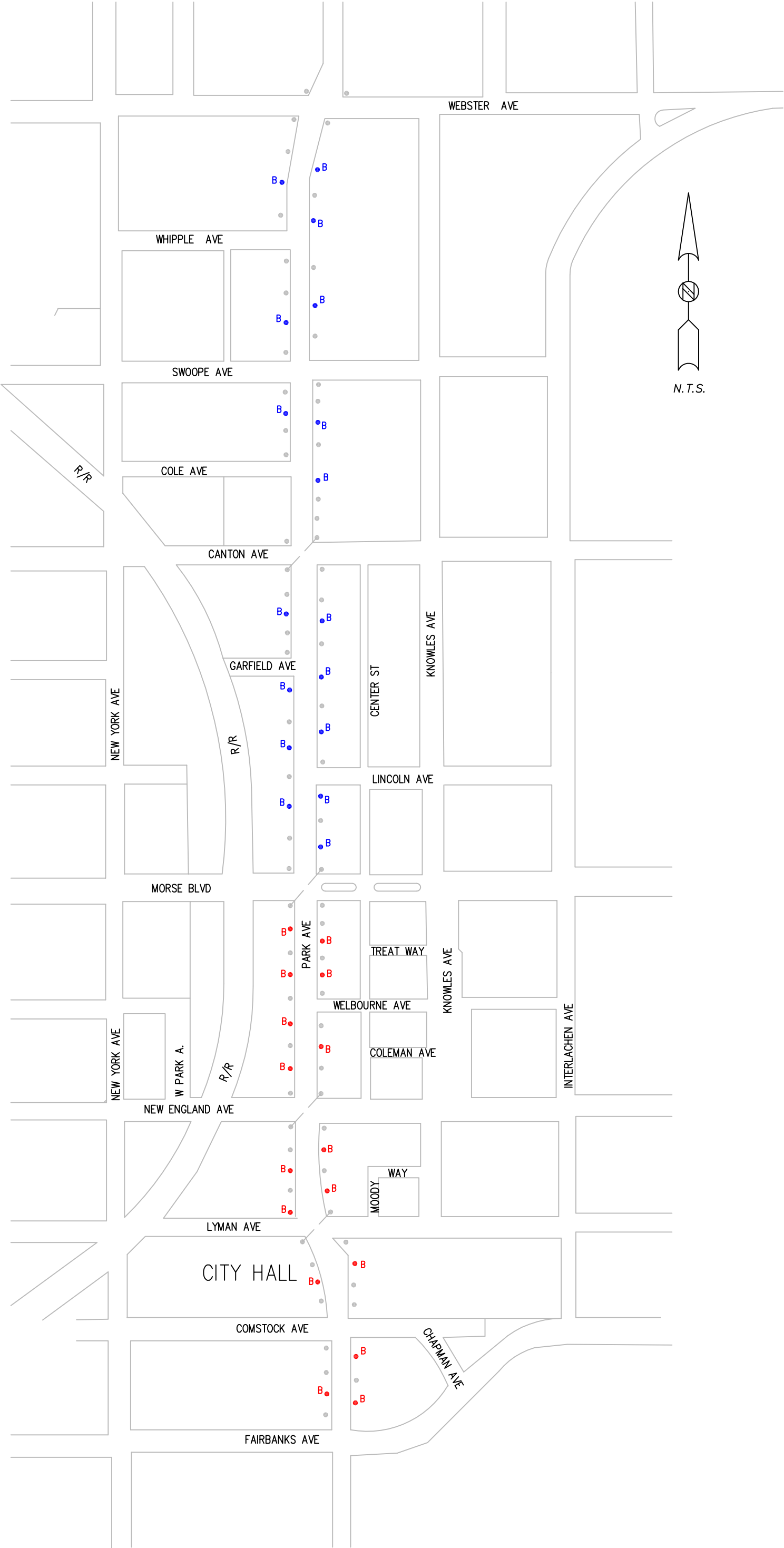
Date Received: \_\_\_\_\_

Dates Available: ☐ Yes ☐ No

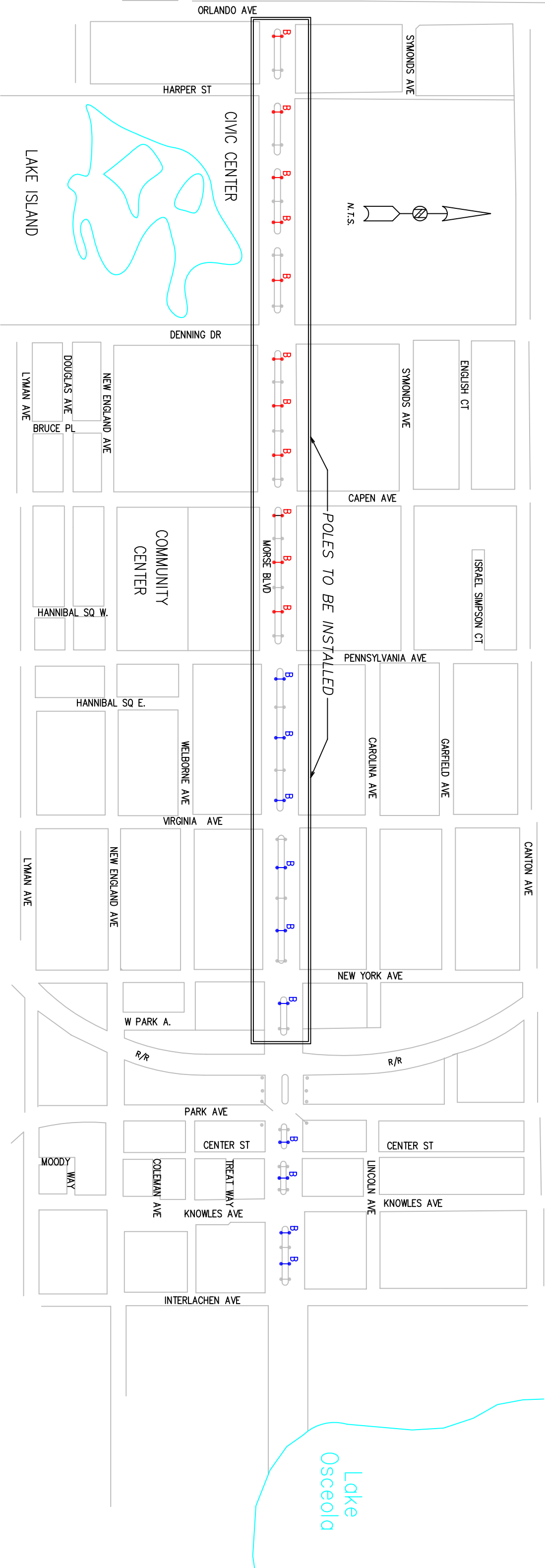
Design Approved: ☐ Yes ☐ No

Payment Received: ☐ Yes ☐ No

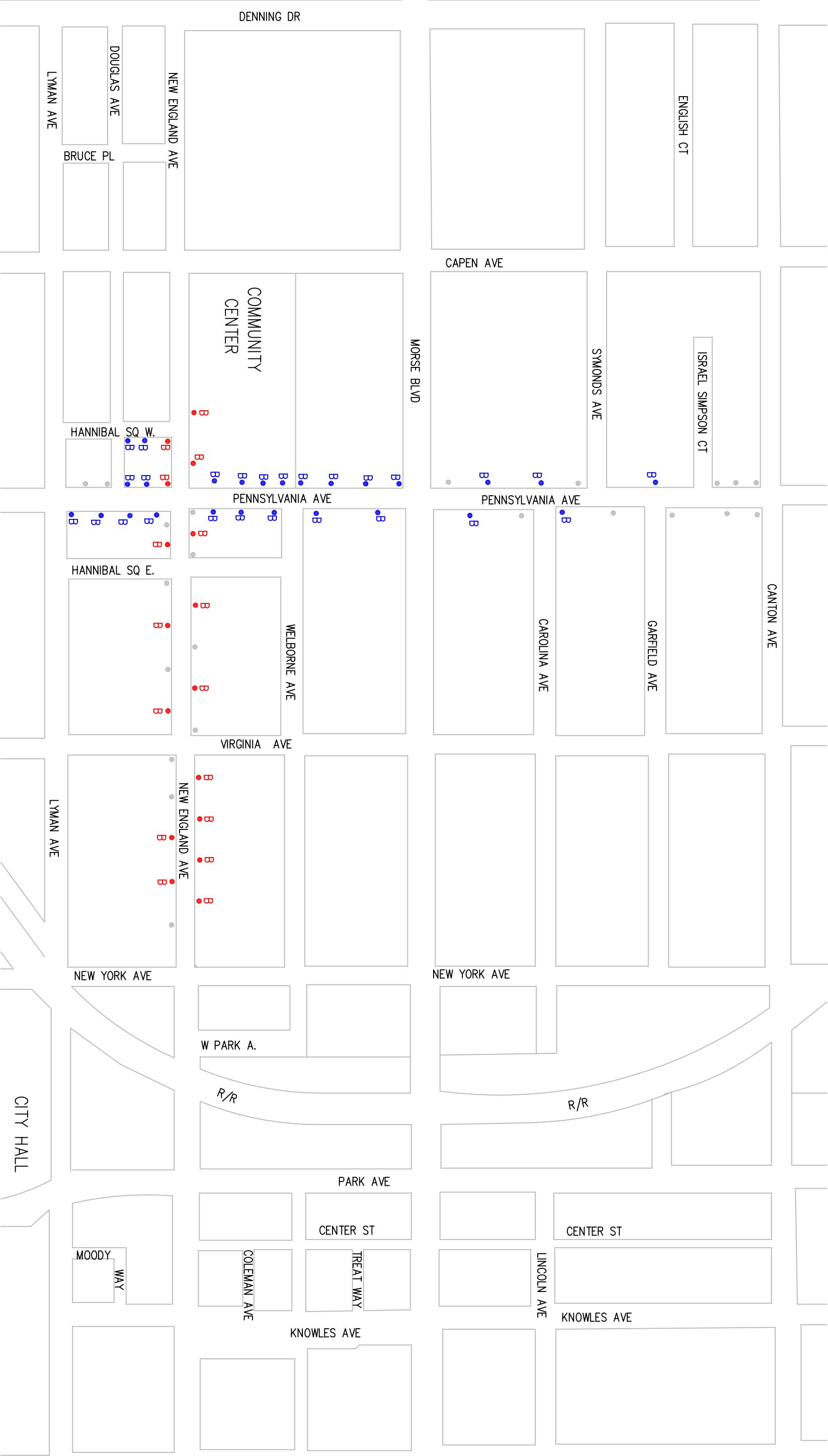
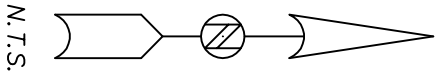
Amount: \$ \_\_\_\_\_



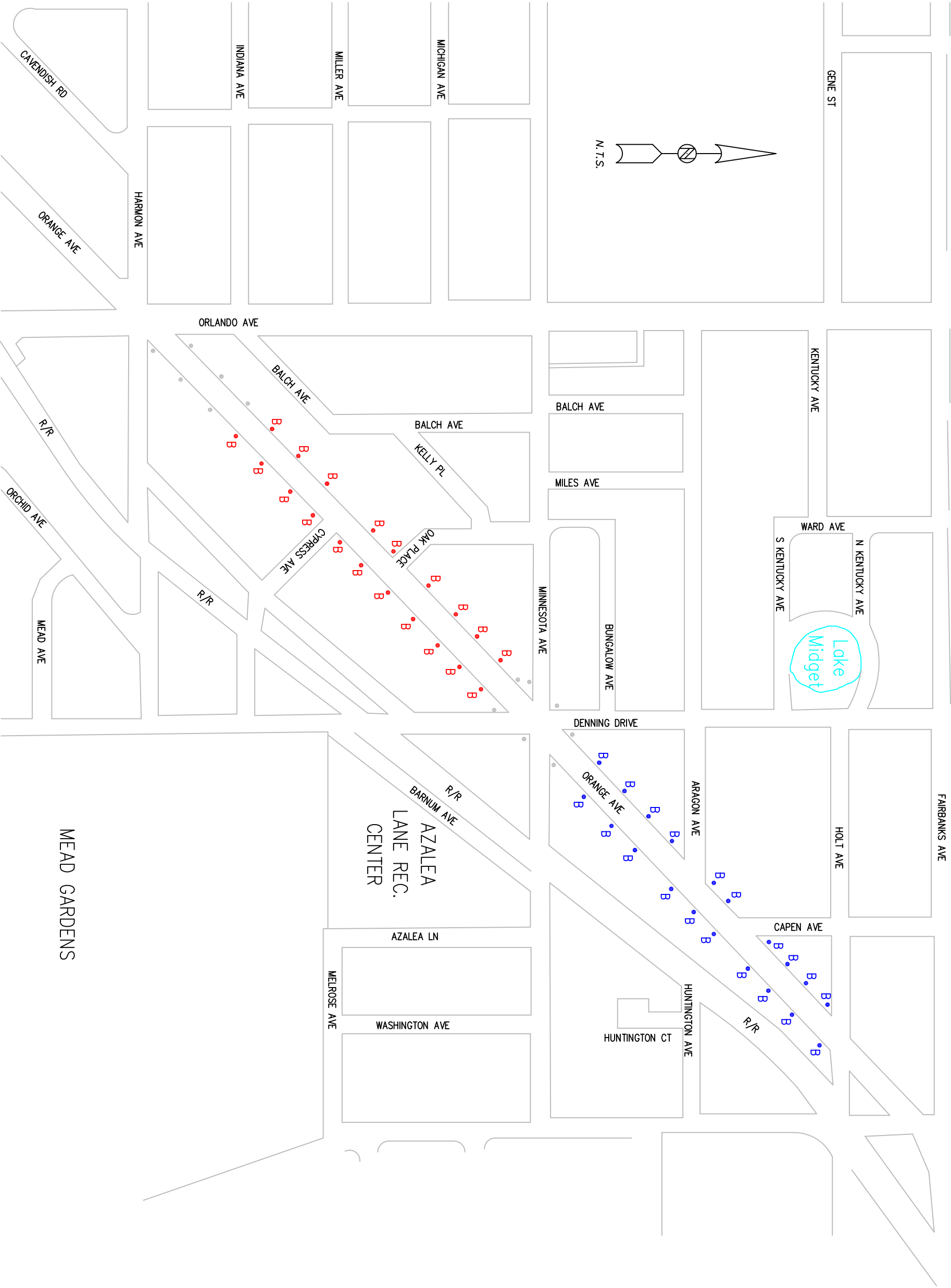
# PARK AVENUE



MORSE BOULEVARD



# NEW ENGLAND AVE / PENNSYLVANIA AVE



ORANGE AVENUE





# city commission agenda item

item type	Action Item Requiring Discussion	meeting date	May 9, 2011
prepared by department division	Electric Department	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Utilities Advisory Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

## Subject

Nuclear Electric Insurance Limited (NEIL) refunds

## motion | recommendation

- 1) Retain \$500k of the refunds to establish a fuel adjustment stabilization fund
- 2) Return the balance of the NEIL refunds ~ \$1million as a credit to the City's electric customers through the July – September fuel adjustment

## background

Prior to January 1, 2011, the City purchased its wholesale power through an "all-requirements" contract with Progress Energy Florida (PEF). Through that contract, PEF provided the City's power supply from all of its generating assets including PEF's Crystal River 3 Nuclear Plant (CR-3). Near the end of September 2009, PEF took CR-3 out of service to replace the plant's 30+ year old steam generators. Since the steam generators are located inside the plant's concrete containment dome, a large opening had to be cut through the dome to allow removal of the old steam generators and installation of the new steam generators. During the process of cutting through the containment dome, delaminations in the concrete were discovered. As a result, CR-3 was out of service for the last three months of 2009 and all 12 months of 2010. As of this date CR-3 remains out of service. PEF has a replacement power insurance policy through Nuclear Electric Insurance Limited that helps to cover the increased cost of PEF's replacement power resulting from a CR-3 extended outage. Increases in PEF's cost of power resulted in the City of Winter Park and its electric customers paying more for its wholesale power over the 15 month period October 2009-December 31, 2010. Increases are passed through to Winter Park through the fuel adjustment mechanism. Beginning January 1, 2011, The City's new contracts with Seminole Electric Cooperative and PEF replaced the PEF all-requirements contract that expired December 31, 2010. Under the new contract PEF provides 40 MW of natural gas-fired combined cycle capacity and no longer provides power to the City from CR-3. If PEF receives future NEIL refunds for the period beyond January 1, 2011, the City will not receive a pro rata share of those refunds.

To date, the City has received \$1,183,763 of NEIL refunds. This amount covers the period through October 2010. The City expects to receive another \$300,000 - \$400,000 as its share of the November and December 2010 Refunds. This will bring the City's total share of the NEIL refunds to approximately \$1.5 million.

In all of our communications to our electric customers over the years, we have consistently taken the position that fuel is a pass through and that the city does not make a profit on the fuel component of our wholesale power cost charged by our power suppliers. Given this pass through value system, the NEIL refund should be treated as credit against the higher energy costs that we have passed through to our customers over the last 15 months due to the CR-3 outage.

Staff recommends that \$500,000 of the NEIL refund be retained as a fuel adjustment stabilization fund that can be credited against the fuel adjustment calculation to reduce the impact of future large increases. In other words, when the fuel adjustment calculation indicates the need for a larger than desirable increase in the quarterly fuel adjustment, the City Manager or his designee would use a portion of the stabilization fund to reduce the increase, thereby returning the funds to the customer. Staff analyzed the average fuel cost and maximum deviations over the five fiscal year period 2006-2010 and determined that \$500,000 represented a reasonable maximum deviation (see table below).

Fiscal Year	Average Monthly Fuel Cost		Average Monthly MWh	Maximum Deviation from Average	
	\$	\$/MWh		\$/MWh	\$
FY 2006	\$1,614,844	\$41.48	38,928	\$8.75	\$340,525
FY 2007	\$1,617,135	\$42.50	38,053	\$13.51	\$514,226
FY 2008	\$1,945,553	\$51.98	37,428	\$13.46	\$503,714
FY 2009	\$1,929,843	\$52.38	36,847	\$4.73	\$174,100
FY 2010	\$2,066,098	\$54.26	38,076	\$3.00	\$114,133

The creation of a fuel adjustment stabilization fund will allow staff the freedom to soften the sometimes wild swings in the quarterly fuel adjustment to create a more stable rate environment.

The return of the balance of the NEIL refunds, approximately \$1.0 million over the summer fuel adjustment period July – September will reduce customers’ bills by approximately \$8 per 1,000 kWh. For a 1,000 kWh residential customer this will amount to approximately a 7% reduction. For commercial customers it will result in a 7-9% reduction depending on rate classification and usage characteristics.

The Utilities Advisory Board discussed the NEIL refunds at its April 6 meeting. There was some discussion that the refunds should be returned to the customers over the same time period the increased wholesale power supply costs were experienced (15 months). In the end, however, the Board concluded that returning the money over the summer months in which customers experience higher than normal electric bills would be appreciated by Winter Park Electric customers. Also, the UAB believes that using a portion of the money to offset increases in future fuel adjustments (i.e. rate stabilization) is not inconsistent with the pass through value system that is currently in place. The Utilities Advisory Board voted unanimously to approve the above recommendations.

## fiscal impact

Returning the NEIL refunds to customers will offset \$1.5 million in revenue in the electric utility’s income statement which will adversely affect net income and debt service coverage. It should be noted, however, that the \$1.5 million of NEIL refunds were not anticipated and were therefore not included in the FY 2011 budget. Staff believes that the electric utility’s financial performance for FY 2011 will still equal or exceed the performance planned in the budget.

## alternatives | other considerations

Alternatively the NEIL refunds could be allocated by the City Commission for other electric department purposes. Given that the refunds are a onetime revenue source, staff does not recommend the use of the funds for ongoing programs and/or electric department costs. Alternative one time uses could include:

- Use some of the funding for a to be determined underground project. Investing a portion of these funds in undergrounding will, near-term, reduce O&M and ongoing related capital expenditures.
- Use a portion of the funds to accelerate pay back to the City of funds owed by the electric utility. Previously, in Spring 2009, the City Commission approved a five year pay-back strategy. The Utility is in the second full year of that strategy and is on track to complete the repayment in the five year period.



# city commission agenda item

item type	Action Item Requiring Discussion	meeting date	May 9, 2011
prepared by department division	Randy Knight City Manager n/a	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote		

## subject

Discussion of forming a public venues task force.

## motion | recommendation

Approve the formation of a public venues task force and establish the number of members and appointment process.

## background

During the recent strategic planning sessions the City Commission discussed establishing a public venues task force to explore a long-term solution for City Hall and Library without increasing the tax burden.

It was suggested that at least one member should be an economist.

At the April 25<sup>th</sup> meeting it was suggested that we might use the same type of selection process that was utilized for the Charter Review Task Force. In that process, The Mayor and each Commissioner appointed one member and the Mayor nominated two at large members that were confirmed by the Commission for a total of seven members.

## alternatives | other considerations

There are numerous alternative ways to appoint the members as well as various options for the size of the task force.

The City could also utilize an existing board for this process such as the Economic Development Advisory Board.

A third option would be to keep this an informal task force and staff could take the lead with various individuals in the community that could help with the process.

## fiscal impact

None.

## strategic objective n/a

Quality facilities and infrastructure.



# city commission agenda item

item type	Action Item Requiring Discussion	meeting date	May 9, 2011
prepared by department division	City Management	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote		

## subject

Master Board Ordinance

## motion | recommendation

1. Evaluate Ordinance and make suggestions in preparation for first public hearing to be held on May 23, 2011
2. Provide direction on options offered below.

## summary

Currently there are over 60 Ordinance and resolutions governing Advisory Boards within the City of Winter Park. Development of a Chapter within the Code of Ordinances to address the rules, procedures and duties of the Boards would centralize the information into a single location within the Code. At the same time it would allow the Commission to standardize certain procedures and review the duties of the Boards.

The draft Ordinance provided in the packet for discussion includes all existing boards, with their existing membership requirements. Through discussion and consensus of the Commission, they may be changed with the exception of the boards required by statute or City Charter.

The following alternatives are presented to the Commission for discussion and decision to be included in the final ordinance.

1. **Consolidate Quasi Judicial decision making functions to a single Board.** Under this scenario, a Board such as the Code Enforcement Board would hear quasi judicial cases related to traditional code enforcement, tree removal, boat dock appeals, and historic preservation appeals. The individual advisory boards would remain, but their authority would be purely advisory.
2. **Consolidate Police and Fire Pension Boards.** Currently there are two Boards which each represent their respective agency. By combining the Boards, some minor administrative costs may be reduced. Both of the current Boards are opposed to being combined.
  - a. With or without combining the Boards, the Commission may want to require that a City Commissioner or designee serve as member of the board.
3. **Sunset Provision.** The Ordinance contemplates a 5 year review of Advisory Boards (not quasi judicial boards). Should the evaluations be staggered to review a few boards each year or should all advisory boards be evaluated on the same schedule.

## Board comments

N/A

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CONSOLIDATING CITY BOARDS AND COMMISSIONS, DEFINING THE DUTIES OF BOARDS AND COMMISSIONS OF THE CITY OF WINTER PARK, AND REPEALING CERTAIN ORDINANCES AND RESOLUTIONS RELATING TO SUBSIDIARY BOARDS AND COMMISSIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Park has at this time several ordinances and resolutions regarding City boards and commissions that are codified in several sections of the Code of the City of Winter Park; and

**WHEREAS**, the City has the authority under the City Charter, Section 2(b), Article VIII of the State Constitution, and Section 166.021(1), Florida Statutes, to exercise any power for municipal purposes except where expressly prohibited by law; and

**WHEREAS**, the City Commission has determined that it is in the interest of the residents of Winter Park and other persons doing business with the City to provide for a uniform and comprehensive division within the City Code, to the extent allowed by law, concerning all subsidiary boards and commissions of the City, and to provide for a consolidation of the rules pertaining to such boards.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, HEREBY ORDAINS AS FOLLOWS**

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated by reference.

Section 2. Replacement of Chapter 2, Article III. Chapter 2, Article III entitled "Boards and Commissions" in the City Code is hereby repealed, and is replaced with the following provisions:

**DIVISION ONE**

**Establishment of City Boards**

- a. Establishment of City Boards. There shall be established in this Division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this Chapter and Article, then the requirements of State statute and the Charter shall control.
- b. List and Size of Boards Established. The following boards and number of members are established. The general requirements are specified in Division

two herein and the board specific requirements are specified in Division Three.

1. Board of Adjustments – Six members, one alternate.
2. Civil Service Board – Seven members, no alternate.
3. Code Enforcement Board – Seven members, one alternate.
4. Community Redevelopment Agency – Six members, no alternate.
5. Community Redevelopment Advisory Board – Seven members, one alternate.
6. Construction Board of Adjustment and Appeals – Seven members, no alternate.
7. Economic Development Advisory Board – Seven members, one alternate.
8. Environmental Review Advisory Board – Nine members, one alternate.
9. Ethics Advisory Board – Five members, one alternate.
10. Historic Preservation Advisory Board – Five members, one alternate.
11. Housing Authority Board – Seven members, no alternate.
12. Independent Personnel Review Board – Five members, no alternate.
13. Keep Winter Park Beautiful Advisory Board – Eleven members, no alternate.
14. Lakes and Waterways Advisory Board – Seven members, one alternate.
15. Parks and Recreation Advisory Board – Seven members, one alternate.
16. Pedestrian and Bicycle Advisory Board – Seven members, no alternate.
17. Planning and Zoning Board – Five members, one alternate.
18. Public Art Advisory Board – Eleven members, no alternate.
19. Tree Preservation Board – Five members, one alternate.
20. Utilities Advisory Board – Nine members, no alternate.
21. Winter Park Firefighter and Police Officer Pension Board – five members, no alternate.

## **DIVISION TWO**

### **General Rules Applicable to Subsidiary Boards of the City of Winter Park**

- a. Date of Appointment of Members. With the exception of the Civil Service Board, the members of all boards of the City shall be appointed by the Mayor, subject to the approval of the City Commission, at the first Commission meeting in May of each year or as soon thereafter as possible and such members shall be seated at the first meeting following May 31<sup>st</sup>. The members of the Civil Service Board shall be appointed in December and be seated effective the third Tuesday in January.
- b. Removal of Members. Members of City boards shall serve at the will of the City Commission and shall be subject to removal at any time, with or without cause, by a majority vote of the City Commission. This provision is intended to be supplemental to, and not in conflict with, the provisions of Section



112.501, Florida Statutes, which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a member is removed for cause, the procedures in Section 112.501, Florida Statutes shall apply.

- c. Resignations. Members of all boards shall be entitled to resign at any time by delivery of written notice thereof to the City Commission.
- d. Quorum. A quorum shall be a majority of the board in attendance physically at a meeting.
- e. Applicability of Rules of Ethics. No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the Code of Ethics for Public Officers and Employees stated in Chapter 112, Florida Statutes, or if such action or vote is in violation of the Code of the City of Winter Park.
- f. Vacancies. The Mayor, subject to approval of the City Commission, shall promptly fill all vacancies, including alternate members, occurring on City boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.
- g. Automatic Advancement of Alternate In the Event of Vacancy. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the City Commission. If there is no alternate, the Mayor shall appoint subject to Commission approval.
- ~~h. Representation By Member of Third Parties. No member of a board shall represent a third party in any proceeding before such board to which the member belongs.~~
- h. Exception to Automatic Advancement. If a vacancy occurs in a board position within sixty- (60) days before the end of the term of the member, the position shall remain vacant until filled as part of the regular appointment process by which the Mayor shall appoint the member, subject to the approval of the City Commission, at the first Commission meeting in May of each year.
- i. Representation By Member of Third Parties. No member of a board shall represent a third party in any proceeding before such board to which the member belongs.
- j. Role and Responsibility of Members of Subsidiary Boards of the City of Winter Park. Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various City boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the City and its residents. Although City boards may

make recommendations concerning provisions of the City Code, no member of a City board shall, by virtue of such office, have the authority to represent the City of Winter Park in any action to enforce the City Code or any provision thereof.

- k. Term In Office and Reappointment. Unless otherwise required by Florida Statutes or City Charter, each member of the City's boards shall have an initial term of three (3) years in office and may be reappointed to one (1) additional consecutive three (3) year term. Following a break in service of at least one (1) ~~term~~year, a former member may be appointed again ~~in the future~~ to the same board subject to the limitation expressed herein, that the term shall be for three (3) years with an opportunity to be reappointed for one (1) three (3) year term immediately following the expiration of the initial three (3) year term. For good cause shown, the Mayor may waive this term limitation, subject to approval by majority vote of the Commission.
- l. Attendance, Participation By Telephone, and Procedures If There Is Lack Of A Quorum. Each member of a City board shall be automatically terminated from the board if the member misses three (3) consecutive meetings. Each member of a City board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.
- m. Evaluation Process. Each City board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the Commission. The City Manager shall work with the presiding officer or designee of each City board to insure that the report concerning the evaluation of each board member and each board is presented to the City Commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year.
- ~~n. Number of Board Members and Alternates. Unless otherwise specifically provided by Florida Statutes or City Charter, each subsidiary board of the City shall have five (5) members and one (1) alternate. The alternate shall be selected and identified as an alternate, and appointed by the same process as the selection of the members of each board.~~
- o. Task Forces. The City Commission may, from time to time, establish a task force for the study of a particular issue. A task force established by the City Commission will have a limited scope of responsibility and will address only



the issue or issues designated, and following the study of such matters shall report the findings of the task force to the Commission with recommendations. Unless otherwise established by the City Commission or extended by action of the Commission, no task force shall continue in existence beyond one hundred eighty (180) consecutive calendar days following the effective date of the decision, Resolution or Ordinance providing for the establishment of the task force.

~~P.D.~~ Sunset Of Boards Unless A Board Is Required By Statute Or Charter. Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each City board shall sunset and terminate every five (5) years following May 1, 2011, unless the board is renewed by a majority vote of the Commission. This will allow the Commission to evaluate the effectiveness and need for the particular board on a regular basis. Notwithstanding this provision, any advisory board may be terminated at any time by a majority vote of the City Commission, unless such board is required by Florida statute or charter. The following quasi-judicial boards will not sunset: Planning and Zoning; Board of Adjustments and Appeals; Code Enforcement; Civil Service; Lakes and Waterways Advisory Board (to the extent it hears stormwater fees appeals). Additionally, without compliance with law, the Community Redevelopment Agency and the Housing Authority may not be terminated.

~~E.P.~~ Expenses and Reimbursement. No member of any board shall receive a salary or fee for service as a member. However, the City Manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the City Manager in writing in advance of the member incurring such expense while on official business for the City, it being a requirement that no expense will be reimbursable unless it is reasonably related to City business performed by a member of a subsidiary board of the City of Winter Park.

~~F.Q.~~ Internal Rules of Conduct. Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, Section 286.011, Florida Statutes, and the records thereof shall be public records as required by Chapter 119, Florida Statutes, unless the record is specifically subject to a statutory exemption. The City Manager, ~~and the~~ City Attorney and/or a designated City staff member shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes

and records of official actions shall be public records and retained in the office of the City Clerk.

~~s-r.~~ **Residency Requirement.** Unless ~~non-residency~~ in the City of Winter Park is a requirement of ~~or allowed by~~ the City Charter, ~~or Florida Statutes~~ or Division Three hereof of this Chapter, the ~~City Commission~~ Mayor shall ~~endeavor to~~ appoint to the City Boards persons who are residents in the City of Winter Park. ~~However, for good cause, the Mayor may nominate and the City Commission may approve a person who is not a resident for membership so long as such appointment does not violate a provision of the City Charter or state law. Without limitation, such good cause may include circumstances where a particular type of expertise is advisable or required in the membership of the particular board, and such qualifications are not reasonably available in a resident willing to serve, or, where appropriate qualifications are held by a person who owns a business or works in the City, although he or she may not be a resident.~~

**Comment [r1]:** We need to make sure that any board that should allow or require non-resident members, say so in its specific section in Division Three.

~~t-s.~~ **Provision Of Legal and Staff Services.** To the extent not specifically mentioned in Division ~~Two-Three~~ of this Chapter and Article, a subsidiary board of the City of Winter Park may request from the City Manager that the City Manager ~~direct~~ staff or the City Attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.

~~u-l.~~ **Frequency Of Meetings.** Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the City Clerk and City Manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.

### **DIVISION TWOTHREE**

#### **Establishment and Description of City Boards**

~~a.~~ **Establishment of City Boards.** ~~There shall be established in this Division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this Chapter and Article, then the requirements of State statute and the Charter shall control.~~

~~b-a.~~ **Divisions One and Two Apply To All City Boards.** Except as otherwise provided in this Division, the Charter, or Florida Statutes, the requirements governing City boards stated in Divisions ~~One and Two~~ of this Chapter and Article ~~and Article~~ shall apply to each City board.

~~c.~~ **Construction Board of Adjustments and Appeals.**

- ~~(1) Membership. There is established a board to be called the Construction Board of Adjustments and Appeals. This Construction Board of Adjustments and Appeals shall be deemed a "local construction regulation board" as defined in Section 489.101(12), Florida Statutes, which means a board composed of not fewer than three (3) residents of the City, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the Construction Board of Adjustments and Appeals shall consist of residents, at least one of whom is a practicing architect, one a structural engineer, one a licensed general contractor, and the remaining two positions consisting of a master electrician, master plumber, or mechanical contractor or mechanical engineer.~~
- ~~(2) Quasi Judicial Proceedings. The Construction Board of Adjustments and Appeals shall comply with the requirements of Florida law in the conduct of quasi judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of the application of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the City Attorney or City Manager will provide technical support and advice to the Construction Board of Adjustments and Appeals for purposes of conducting quasi judicial proceedings in accordance with the requirements of Florida law.~~
- ~~(3) Secretary of the Construction Board of Adjustments and Appeals. The building official shall act as secretary of the Construction Board of Adjustments and Appeals and shall be responsible to make minutes of the official proceedings of the Board as required by law. The Construction Board of Adjustments and Appeals shall notify all persons who appear before it that it is the obligation of a party to insure that a court reporter or other means for a verbatim transcript acceptable to a court is available if a party wishes to make a record for judicial review of any action.~~
- ~~(4) Authority. The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the City who is found by the Construction Board of Adjustments and Appeals to be guilty of one or more of the following acts or omissions:
  - ~~(A) Fraud or deceit in obtaining a certificate of competency.~~
  - ~~(B) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its Land Development Code.~~~~

- ~~(C) Willful and deliberate disregard of, or violation of the City's Code, including its Land Development Code, or of any state statute concerning contractor licenses.~~
- ~~(5) Decision of the Building Official. An owner of a building, structure, service system or other construction component, or duly authorized agent thereof, may appeal a decision of the building official to the Construction Board of Adjustments and Appeals whenever any of the following conditions are alleged:~~
- ~~(A) It is alleged that the building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.~~
- ~~(B) It is alleged that the provisions of the City Code do not apply to the specific case at issue.~~
- ~~(C) It is alleged that an equally good or more desirable form of installation or construction may be employed in the specific case at issue.~~
- ~~(D) It is alleged that the intent or meaning of the building code or any of the regulations thereunder are misconstrued or incorrectly interpreted by the building official.~~
- ~~(6) Procedures. The Construction Board of Adjustments and Appeals shall establish rules and regulations for its own procedure, but its rules and regulations must be consistent with any provision of the Code and Charter of the City of Winter Park, and Florida law. The Construction Board of Adjustments and Appeals shall meet as soon as reasonably possible after a notice of appeal is received, and shall endeavor to hear appeals within thirty (30) calendar days after an appeal is filed. However, for good cause shown the Construction Board of Adjustments and Appeals may continue appeals for a reasonable period of time, either on the motion of a party, including the building official, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.~~
- ~~(7) Procedures for Filing Notice of Appeal. The notice of appeal shall be in writing and filed within thirty (30) calendar days after the first occasion on which the subject decision at issue is rendered by the building official. The appeal shall contain sufficient information such that the building official may reasonably understand the issue presented for appeal and the general nature of the argument and alternative proposals made by the party initiating the appeal. If the building official requires clarification of the appeal, he shall request clarification from the party making the appeal within three (3) business days from the date on which the appeal is filed. The appellant shall thereafter have ten (10) business days to file the clarification requested by the building official, and if the clarification is filed timely, then the appeal shall be considered timely.~~

~~(8) Unsafe Or Dangerous Buildings Or Service Systems. If a building, structure or service system is unsafe, unsanitary or dangerous in the opinion of the building official, then the building official shall have the authority to order a shorter period of time for the appeal, which shortened period of time shall be reasonable under all of the circumstances presented, and the building official under such conditions may order a suspension of the work pending the resolution of the appellate process.~~

~~(9) Decisions. The Construction Board of Adjustments and Appeals shall reach a decision without unreasonable or unnecessary delay. Each decision of the Construction Board of Adjustments and Appeals shall be in writing and shall include the reasons for the decision. If the decision reverses or modifies a refusal, order or disallowance originally made by the building official, or varies the application of any provision of the Code, the building official shall immediately take action in accordance with the decision. Each decision will be filed promptly in writing in the office of the building official and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the appellant, and a copy shall be maintained as a public record in the office of the building official.~~

~~Each decision of the Construction Board of Adjustments and Appeals is final, subject to such remedies as the aggrieved party may have in law or equity. Appeals from the decisions of the Construction Board of Adjustments and Appeals relating to the Florida Building Code, other than appeals regarding local amendments to the Building Code, may be appealed to the Florida Building Commission pursuant to Section 120.569, Florida Statutes. Other decisions may be subject to judicial review as provided by law.~~

~~(10) Incorporation Into Land Development Code. These provisions relating to the Construction Board of Adjustments and Appeals shall be deemed to be a part of the City's Land Development Code and are incorporated into the Land Development Code by this reference.~~

~~d-b.~~ **Board of Adjustments.** There is established within the City of Winter Park, pursuant to the provisions hereof, a Board of Adjustment, subject to the following provisions:

~~(1) (1) Membership. The Board of Adjustments shall consist of five (5) members and one (1) alternate, each of whom shall be a resident within the City of Winter Park. The number of members and the procedures for appointment there-of shall be in accordance with the provision in Divisions One and Two hereof. this Chapter and Article and Article.~~

~~(2) Quasi-Judicial Proceedings. The Board of Adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-~~

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judicial activity of the Board of Adjustment is in accordance with the requirements of Florida law.

(3) Authority. The Board of Adjustment shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the Land Development Code. A request for variance shall be subject to the requirements of the public interest and the Land Development Code, and may be appropriate where, because of special conditions, an interpretation of the provisions of the Code relating to zoning or signs will result in an unnecessary hardship.

(4) Scope Of Relief. A variance is authorized to be issued by the Board of Adjustment only for height, area, size of structure, size of yards or landscaped open spaces, size of impervious surfaces and number of parking spaces, or the size of a particular sign. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

(5) Procedures. The Board of Adjustment shall establish rules and regulations for its own procedures, so long as its rules and regulations are not inconsistent with any provision of the Code of the City of Winter Park, the Charter of the City of Winter Park, and Florida law. The Board of Adjustment shall meet as soon as reasonably possible after a request for variance in accordance with the requirements of the Land Development Code has been received, and shall endeavor to hear such matters within thirty (30) calendar days after a request for a variance is filed. However, for good cause shown, the Board of Adjustment may continue a proceeding for a reasonable period of time, either on the motion of a party, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.

(6) Procedure For Requesting Variance. The procedure for requesting a variance shall be set out in the City's Land Development Code.

(7) Decisions. The Board of Adjustment shall reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall be in writing and shall include the reasons for the decision. Each decision will be filed promptly in writing with the City Clerk and City Manager, or designee of the City Manager, and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the party requesting a variance.

Review of each decision of the Board of Adjustment shall be in accordance with the City Code, including its Land Development Code.

(8) Incorporation Into Land Development Code. The requirements and procedures set out in Chapter 58 of the Code of the City of Winter Park, entitled the "Land Development Code", including Article III thereof for zoning, shall apply to the conduct of the business of the Board of

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Adjustments, and all of the activity of the Board of Adjustments shall be subject to the provisions of the City's Land Development Code, including the provisions concerning notice and procedures stated in Sections 58-91 and 58-92 of the City Code. By this reference this section is incorporated into the City's Land Development Code.

~~e.c.~~ Civil Service Board. There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and Section 4.07 of the City Charter, a Civil Service Board, subject to the following provisions:

- (1) Membership. Membership of the Civil Service Board shall be as provided in Section 74-52 of the City Code. The provisions of Divisions One ~~and Two hereof this Chapter and Article and Article~~ shall apply to the extent those general provisions are not in conflict with Section 74-52 of the City Code. In the event of any conflict between Division One ~~of this Chapter and Article and Article~~ and Section 74-52, the provisions of Section 74-52 of the City Code shall control. The Civil Service Board shall have seven (7) members. Five (5) members shall be appointed by the City Commission in the manner provided in Division One of this Chapter and Article and Article, and such appointees shall be persons of different vocations residing in the City who are not employed by the City. The remaining two (2) members shall be chosen, one (1) by the members of the police department and one (1) by the members of the fire department, according to election procedures set out in Chapter 74, Article III, Section 74-51, et seq., of the City Code. The Chief of Police and Chief of the Fire Department shall be ex officio members of the Civil Service Board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian members of the Board will be three (3) years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one (1) year. The remaining details concerning membership are set out in Section 74-52 of the City Code. ~~The appointment of an alternate member as provided in Division One of this Chapter and Article and Article is supplemental to these provisions and an alternate shall be appointed as provided in Division One hereof.~~
- (2) Quasi-Judicial Proceedings. The Civil Service Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Civil Service Board is in accordance with the requirements of Florida law.
- (3) Authority. The Civil Service Board shall have such authority and responsibility as set out in Chapter 74, Article III, Sections 74-51, et seq., of the City Code, which concerns the Civil Service Board, ~~and, in performing its function, the Civil Service Board shall abide by the procedural and substantive requirements set out in said sections in Chapter 74 relating to the Board. Chapter 74, Article III, Sections 74-51, et seq., of the City Code which concern the Civil Service Board.~~ To

the extent the general provisions in Divisions One and Two hereof ~~this Chapter and Article and Article~~ are not in conflict with Chapter 74, then the provisions in Divisions One and Two of this Chapter and Article and Article shall also apply, but only to the extent that ~~the such~~ provisions in Division One of this Chapter and Article and Article supplement and are not in conflict with the provisions in of Chapter 74, ~~Article III, Sections 74-51, et seq.~~

f.d. Code Enforcement Board. There is established within the City of Winter Park pursuant to Section 162.05, Florida Statutes, and by the authority of the City Commission, a Code Enforcement Board, subject to the following provisions:

- (1) Membership. ~~The number of members and the procedures for appointment there-of shall be in accordance with the provisions in Divisions One and Two hereof, this Chapter and Article and Article. The Code Enforcement Board shall consist of seven (7) members, plus one (1) alternate. The term of service and the method of appointment shall be as provided in Division One of this Chapter and Article and Article.~~ Members shall be residents of the City. In accordance with subsection 162.05(2), Florida Statutes, the membership of the Code Enforcement Board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (2) Quasi-Judicial Proceedings. The Code Enforcement Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Code Enforcement Board is in accordance with the requirements of Florida law.
- (3) Authority. The Code Enforcement Board shall have such responsibility and jurisdiction to respond to such matters as are set out in Chapter 162, Florida Statutes, and, Chapter 2, Article III, Sections 2-101, et seq., of the City Code. In performing its function, the Code Enforcement Board shall be governed by the procedures set out in Florida law and Sections 2-101, et seq., of the City Code.

The provisions in Division ~~One-Two~~ of this Chapter ~~and Article and Article and Article~~ shall apply to the conduct of the Code Enforcement Board except to the extent that the provisions in Divisions One and Two conflict with a provision in Chapter 2, Article III, ~~Division Four~~, Sections 2-101, et seq., of the City Code or Florida law.

g.e. Community Redevelopment Agency. There is established within the City of Winter Park pursuant to the provisions hereof, a Community Redevelopment Agency, subject to the following provisions:

- (1) Membership. Pursuant to Section 163.356, Florida Statutes, the term of office of the members of the Community Redevelopment Agency shall be for four (4) years, and the members are referred to as commissioners in said statute. The City Commission shall serve as five (5) commissioners on the Community Redevelopment Agency, and the

**Comment [r2]:** Need to state that the City Commission will serve as members and the County appoints the other



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County shall appoint the sixth (6<sup>th</sup>) commissioner to the Agency. The City Commission may remove a commissioner of the Community Redevelopment Agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten (10) days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in subsection 163.356(4), Florida Statutes. Otherwise, the provisions in Division One and Two hereof ~~this Chapter and Article and Article~~ shall apply to the Community Redevelopment Agency, ~~with respect to the membership thereof, the procedure for appointment of members and other attributes of membership on the Community Redevelopment Agency.~~

- (2) Scope Of Authority. The Community Redevelopment Agency shall constitute a separate and distinct entity to the extent provided under Florida law and shall have such powers as are provided to community redevelopment agencies as set out in Part III, of Chapter 163, Florida Statutes, Sections 163.330, et seq., relating to community redevelopment.

h.f. Community Redevelopment Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Community Redevelopment Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter and Article and Article.
- (2) Advisory Board. The Community Redevelopment Advisory Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to community redevelopment. The Community Redevelopment Advisory Board shall have no adjudicatory or enforcement authority.
- (3) Procedures. The procedures and rules for operation of the Community Redevelopment Advisory Board shall be in accordance with the general requirements stated in Division ~~One Two~~ hereof ~~this Chapter, and Article and Article.~~
- (4) ~~Consolidation Of Responsibilities Of The Economic Development Advisory Board. The responsibilities and issues previously considered by the Economic Development Advisory Board are consolidated with the function and responsibility of the Community Redevelopment Advisory Board, and the Community Redevelopment Advisory Board shall include within its scope of responsibility the receipt of information, deliberation and delivery of advice and recommendations to the City Commission with respect to matters involving economic development within the City of Winter Park.~~

g. Construction Board of Adjustments and Appeals.

- (1) Membership. The number of members and the procedures for appointment there-of shall be in accordance with the provision in Division One and Two of this Chapter and ~~Article and~~ Article.
- (2) There is established a board to be called the Construction Board of Adjustments and Appeals. This Construction Board of Adjustments and Appeals shall be deemed a "local construction regulation board" as defined in Section 489.101(12), Florida Statutes, which means a board composed of not fewer than three (3) residents of the City, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the Construction Board of Adjustments and Appeals shall consist of residents, at least one of whom is a practicing architect, one a structural engineer, one a licensed general contractor, and the remaining two positions consisting of a master electrician, master plumber, or mechanical contractor or mechanical engineer.
- (3) Quasi-Judicial Proceedings. The Construction Board of Adjustments and Appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of the application of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the City Attorney or City Manager will provide technical support and advice to the Construction Board of Adjustments and Appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.
- (4) Secretary of the Construction Board of Adjustments and Appeals. The building official shall act as secretary of the Construction Board of Adjustments and Appeals and shall be responsible to make minutes of the official proceedings of the Board as required by law. The Construction Board of Adjustments and Appeals shall notify all persons who appear before it that it is the obligation of a party to insure that a court reporter or other means for a verbatim transcript acceptable to a court is available if a party wishes to make a record for judicial review of any action.
- (5) Authority. The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the City who is found by the Construction Board of Adjustments and Appeals to be guilty of one or more of the following acts or omissions:
  - (A) Fraud or deceit in obtaining a certificate of competency.

- (B) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its Land Development Code.
- (C) Willful and deliberate disregard of, or violation of the City's Code, including its Land Development Code, or of any state statute concerning contractor licenses.
- (6) Decision of the Building Official. An owner of a building, structure, service system or other construction component, or duly authorized agent thereof, may appeal a decision of the building official to the Construction Board of Adjustments and Appeals whenever any of the following conditions are alleged:
  - (A) It is alleged that the building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
  - (B) It is alleged that the provisions of the City Code do not apply to the specific case at issue.
  - (C) It is alleged that an equally good or more desirable form of installation or construction may be employed in the specific case at issue.
  - (D) It is alleged that the intent or meaning of the building code or any of the regulations thereunder are misconstrued or incorrectly interpreted by the building official.
- (7) Procedures. The Construction Board of Adjustments and Appeals shall establish rules and regulations for its own procedure, but its rules and regulations must be consistent with any provision of the Code and Charter of the City of Winter Park, and Florida law. The Construction Board of Adjustments and Appeals shall meet as soon as reasonably possible after a notice of appeal is received, and shall endeavor to hear appeals within thirty (30) calendar days after an appeal is filed. However, for good cause shown the Construction Board of Adjustments and Appeals may continue appeals for a reasonable period of time, either on the motion of a party, including the building official, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.
- (8) Procedures for Filing Notice of Appeal. The notice of appeal shall be in writing and filed within thirty (30) calendar days after the first occasion on which the subject decision at issue is rendered by the building official. The appeal shall contain sufficient information such that the building official may reasonably understand the issue presented for appeal and the general nature of the argument and alternative proposals made by the party initiating the appeal. If the building official requires clarification of the appeal, he shall request clarification from the party making the appeal within three (3) business days from the date on which the appeal is filed. The appellant shall thereafter have ten (10) business

days to file the clarification requested by the building official, and if the clarification is filed timely, then the appeal shall be considered timely.

(9) Unsafe Or Dangerous Buildings Or Service Systems. If a building, structure or service system is unsafe, unsanitary or dangerous in the opinion of the building official, then the building official shall have the authority to order a shorter period of time for the appeal, which shortened period of time shall be reasonable under all of the circumstances presented, and the building official under such conditions may order a suspension of the work pending the resolution of the appellate process.

(10) Decisions. The Construction Board of Adjustments and Appeals shall reach a decision without unreasonable or unnecessary delay. Each decision of the Construction Board of Adjustments and Appeals shall be in writing and shall include the reasons for the decision. If the decision reverses or modifies a refusal, order or disallowance originally made by the building official, or varies the application of any provision of the Code, the building official shall immediately take action in accordance with the decision. Each decision will be filed promptly in writing in the office of the building official and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the appellant, and a copy shall be maintained as a public record in the office of the building official.

Each decision of the Construction Board of Adjustments and Appeals is final, subject to such remedies as the aggrieved party may have in law or equity. Appeals from the decisions of the Construction Board of Adjustments and Appeals relating to the Florida Building Code, other than appeals regarding local amendments to the Building Code, may be appealed to the Florida Building Commission pursuant to Section 120.569, Florida Statutes. Other decisions may be subject to judicial review as provided by law.

(11) Incorporation Into Land Development Code. These provisions relating to the Construction Board of Adjustments and Appeals shall be deemed to be a part of the City's Land Development Code and are incorporated into the Land Development Code by this reference.

**h. Economic Development Advisory Board.** Pursuant to the authority of the City Commission, there is established within the City of Winter Park, an Economic Development Advisory Board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter.

(2) Advisory Board. The Economic Development Advisory Board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning economic development. This Advisory

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Board shall also review proposed comprehensive plan amendments pertaining to economic development, and shall provide direction and advice to the City Commission regarding the same. The Economic Development Advisory Board shall have the authority to establish other areas of interest that it deems relevant in the interest of the City of Winter Park and its residents with respect to quality and sustainable economic development consistent with the goals and objectives of the City of Winter Park and the Charter thereof. The Economic Development Advisory Board shall have no adjudicatory or enforcement authority.

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(3) Procedures. The procedures and rules for operation of the Economic Development Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

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j-i. **Environmental Review Advisory Board.** Pursuant to the authority of the City Commission, there is established within the City of Winter Park, an Environmental Review Advisory Board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter.

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(2) Advisory Board. The Environmental Review Advisory Board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to a sustainable quality environment within Winter Park, and shall inform, educate and advise the City, public and private organizations, and the City Commission, regarding matters and issues of importance with respect to maintaining and improving the environment of the City of Winter Park with respect to all of the natural resources within the City. Although other boards within the City may have interest in specific issues and matters related to natural resources, the Environmental Review Advisory Board shall have the responsibility to review and advise the City Commission with respect to all of the City's natural resources, with a special focus on matters that are of City-wide environmental concern or implication.

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(3) Procedures. The procedures and rules for operation of the Environmental Review Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

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k-j. **Ethics Advisory Board.** Pursuant to the City Charter, there is established within the City of Winter Park an Ethics Advisory Board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One ~~hereof this Chapter, and Article and Article.~~

(2) Advisory Board. The Ethics Advisory Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and

procedures, give advice and recommendations to the City Commission concerning matters related to ethics in the governance of the City of Winter Park. The Ethics Advisory Board shall have no adjudicatory or enforcement authority.

- (3) Procedures. The procedures and rules for operation of the Ethics Advisory Board shall be in accordance with the general requirements stated in Division ~~One Two~~ hereof ~~this Chapter, and Article and Article.~~

~~h.k.~~ Historic Preservation Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Historic Preservation Advisory Board, subject to the following provisions:

- (1) Membership. ~~The number of members and the procedures for appointment there-of shall be in accordance with the provisions in Divisions One and Two of this Chapter and Article. and Article and Article. The membership shall be constituted in accordance with the general requirements stated in Division One of this Chapter and Article and Article. In addition to these general requirements, for membership, the following specific requirements shall apply:~~

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- (2) Members of the Historic Preservation Board Advisory Board shall be residents of the City and shall have demonstrated civic pride, interest in historic preservation, and the knowledge, experience and mature judgment to act in the public interest to make informed, and equitable decisions concerning the conservation of historic resources.

- (3) At a minimum, one (1) member of the Historic Preservation Advisory Board shall be an architect. Other members may have experience, expertise or demonstrated interest in one or more areas such as architecture, history, archaeology, urban planning, landscape, historic preservation, real estate, law, cultural anthropology and building construction.

- (4) Functions, Powers and Duties Of the Historic Preservation Board. The Historic Preservation Advisory Board shall be responsible for the development and administration of a comprehensive historic preservation program, and shall identify and maintain the City's historic resources for the benefit of both present and future residents. The responsibility of the Historic Preservation Advisory Board shall include the following:

- (A) The Historic Preservation Advisory Board shall recommend to the City Commission incentives for historic preservation, and shall recommend for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File survey of the City of Winter Park. In conducting these responsibilities, the Historic Preservation Advisory Board shall be an advisory board.

- (B) The Historic Preservation Advisory Board shall identify potential historic landmarks and potential historic districts for designation, and will provide assistance to and education of owners of

properties for potential designation. In providing these services, the Historic Preservation [Advisory](#) Board shall act as an advisory and educational board and shall not have adjudicatory or enforcement authority.

- (C) The Historic [Advisory](#) Preservation Board shall develop and maintain a register of historic places within the City of Winter Park and will review National Register nominations within the City. These functions shall be advisory only.
- (D) The Historic Preservation [Advisory](#) Board shall recommend guidelines based upon the Secretary of the Interior's Guidelines for use in reviewing applications for certificates of review. The Historic Preservation [Advisory](#) Board may suggest to the City Commission other guidelines to be used in reviewing applications, but in this function the Historic Preservation [Advisory](#) Board is advisory in nature and does not have adjudicatory or enforcement functions.
- (E) The Historic Preservation [Advisory](#) Board shall review applications for certificates of review for designated landmarks, resources and property within designated districts, and shall give advice and recommendations concerning the same to the City Commission.
- (F) The Historic Preservation [Advisory](#) Board shall review requests for variances that may be appropriate for the preservation of historic resources in conjunction with applications for certificates of review, and shall make such recommendations to the Board of Adjustments and the City Commission as may be appropriate in the determination of the Historic Preservation [Advisory](#) Board. In conducting this function, the Historic Preservation [Advisory](#) Board is advisory in nature only, and does not have quasi-judicial or enforcement authority.
- (G) The Historic Preservation [Advisory](#) Board will conduct ongoing surveys and inventory of historically, culturally or architecturally significant buildings, structures, districts and archaeological sites within the City, and shall coordinate survey results with the Florida Master Site File.
- (H) The Historic Preservation [Advisory](#) Board may request the City Manager to provide funds, technical support, consultants and staff with professional expertise as may be necessary to conduct projects determined by the Historic Preservation [Advisory](#) Board to be advisable. The Historic Preservation [Advisory](#) Board does not have the authority to incur expenses on behalf of the City of Winter Park, but may recommend such projects to the City Manager as it deems to be in the interest of the City of Winter Park, consistent with the mission of the Historic Preservation [Advisory](#) Board.

- (I) The Historic Advisory Preservation Board will develop educational programs to stimulate public interest and involvement in the City's history and preservation, and shall develop programs to continuously inform the public of the City's preservation opportunities and the activities of the Historic Preservation Advisory Board.
- (J) The City Manager may authorize the Historic Preservation Advisory Board or members thereof to work with other local governments or state and federal government authorities with respect to preservation activities, and the City Manager may authorize the expenditure of City funds for such purpose.
- (K) The members of the Historic Preservation Advisory Board are encouraged to attend relevant educational meetings, workshops and conferences, and the City Manager may authorize, subject to the requirements in Division One of this Chapter and Article and Article, the expenditure of City funds for such purposes.

~~m.l.~~ Housing Authority Board. There is established within the City of Winter Park pursuant to the provisions hereof, a Housing Authority Board subject to the following provisions:

- ~~(+)~~ (1) Membership. The provisions of Division One of this Chapter and Article and Article and Article shall apply to the membership and means of appointment thereof, subject to the provisions in Chapter 421, including Section 421.05, Florida Statutes. ~~The membership of the Housing Authority Board shall be five (5) members with one (1) alternate member as provided in Division One of this Chapter and Article and Article.~~
- (2) Independent Authority. The Housing Authority Board is an independent housing authority established pursuant to Chapter 421, Florida Statutes.
- (3) Declaration Of Need. Pursuant to Section 421.04, Florida Statutes, the City declares that there is a need for the establishment of the Housing Authority Board pursuant to the requirements and provisions of Chapter 421, Florida Statutes.
- (4) Authority and Scope Of Responsibility. The Housing Authority Board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in Chapter 421, Florida Statutes and rules promulgated by administrative agencies of the State of Florida pursuant to Chapter 421.
- (5) Incorporation of Division ~~One-Two~~ of this Chapter and Article and Article. The provisions of Division ~~One-Two~~ of this Chapter and Article ~~and Article~~ are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.

~~(5) City Beautification Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a City Beautification Advisory Board subject to the following provisions:~~

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- ~~i. Membership. The City Beautification Advisory Board shall be appointed and constituted pursuant to the requirements in Division One of this Chapter and Article and Article.~~
- ~~ii. Advisory Board Except With Respect To Certain Issues Involving Tree Preservation and Protection. Except as stated hereinafter, the City Beautification Advisory Board is an advisory board and shall have no quasi-judicial or enforcement authority. Notwithstanding, when the City Beautification Advisory Board sits as the Tree Preservation and Protection Board pursuant to the provisions in Chapter 58, Division Six, Sections 58-281, et seq., of the City Code (relating to tree preservation and protection), the City Beautification Advisory Board shall act as a quasi-judicial board. When sitting as the Tree Preservation and Protection Board in a quasi-judicial matter, the City Beautification Advisory Board shall conduct its proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the City Beautification Advisory Board is in accordance with the requirements of Florida law. Specifically, pursuant to Section 58-286(d), City Code, the Tree Preservation Board shall consider appeals related to tree removal permits, and the final decision of the Tree Preservation Board shall be sent to the applicant by certified and regular mail within ten (10) days following the decision. An applicant may appeal the decision of the City Beautification Advisory Board sitting as the Tree Preservation Board to the City Commission if a further appeal is filed within fifteen (15) days of the date of the decision by the Tree Preservation Board, in accordance with Section 58-286(d)(3), City Code.~~
- ~~iii. Incorporation Of City Code When the City Beautification Advisory Board Sits As the Tree Preservation Board. The City Beautification Advisory Board shall be subject to the provisions of Chapter 58, Division Six, Sections 58-281, et seq., City Code (relating to tree preservation and protection) when the City Beautification Advisory Board sits as the Tree Preservation Board to consider matters that come within the purview of Chapter 58, Division Six of the City Code.~~
- ~~iv. Applicability Of Division One of this Chapter and Article and Article. Except as expressly provided herein to the contrary, or in cases where Chapter 58, Division Six of the City Code require otherwise, the requirements in Division One of this Chapter and Article and Article shall apply and control with respect to the operations of the City Beautification Advisory Board. Unless it is sitting as the Tree Preservation Board in a quasi-judicial context, the City Beautification Advisory Board shall act in a purely advisory capacity and shall perform the following advisory functions:~~
  - ~~a. The City Beautification Advisory Board shall perform such advisory, educational and training functions as~~

~~previously provided by Keep Winter Park Beautiful and the Lakes and Waterways Board.~~

- ~~b. The City Beautification Advisory Board shall consider previous resolutions and ordinances directing the scope of service of Keep Winter Park Beautiful and the Lakes and Waterways Board, and shall adopt rules of procedure identifying the specific mission and efforts to be undertaken by the City Beautification Advisory Board in fulfillment of its responsibility to gather information, deliberate and give advice to the City Commission on a periodic basis on matters related to beautification, enhancement and utilization of the natural resources of the City of Winter Park in the interest and benefit of all residents of the City. This scope of service shall include the provision of information and education to the public and the City Commission.~~

n.m. Independent Personnel Review Board. There is established within the City of Winter Park, pursuant to the provisions hereof, an Independent Personnel Review Board pursuant to the requirements in Section 4.05 of the City Charter and Chapter 74, Article II, Sections 74-26, et seq., of the City Code, subject to the following provisions:

- (1) Membership. The Independent Personnel Review Board shall consist of ~~members and an alternate appointed as provided in Division One of this Chapter and Article and Article~~the five non-city employee members of the Civil Service Board.
- (2) Quasi-Judicial Proceedings. The Independent Personnel Review Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and Chapter 74, Article II, Section 74-26, et seq., of the City Code. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Independent Personnel Review Board is in accordance with the requirements of Florida law.
- (3) Authority and Responsibility. The duties and responsibility of the Independent Personnel Review Board are set out in Chapter 74, Article II, Sections 74-26, et seq., of the City Code and Section 4.05 of the City Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this Independent Personnel Review Board.

n. Keep Winter Park Beautiful Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, a Keep Winter Park Beautiful Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provision in Division One of this Chapter.
- (2) Advisory Board. The Keep Winter Park Beautiful Advisory Board is an advisory board, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its

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internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to the promotion of beautification and maintenance of the beauty of the City of Winter Park, including but not limited to advice regarding the maintenance and improvement of the appearance of the public spaces within the City. The Keep Winter Park Beautiful Advisory Board shall have no adjudicatory or enforcement authority. However, the Keep Winter Park Beautiful Advisory Board shall have the authority to develop and explore opportunities for fundraising and other awareness programs, but all of such opportunities shall be subject to the ordinances, resolutions and policies for such purposes established from time to time by the City Commission, and the Keep Winter Park Beautiful Advisory Board shall have no authority to commit or obligate the City with respect to the terms, conditions, or any other matters related to fundraising or commitments or agreements related to fundraising. The role and function of this Board with respect to fundraising is to explore opportunities and to give advice and make recommendations to the City Commission, and in all instances the City Commission shall be the responsible entity to enter specific fundraising programs on behalf of the City of Winter Park.

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(3) Procedures. The procedures and rules for operation of the Keep Winter Park Beautiful Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

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o. Lakes and Waterways Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, a Lakes and Waterways Advisory Board, subject to the following provisions:

(1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions of Division One of this Chapter.

(2) With Exception This Is An Advisory Board. The Lakes and Waterways Advisory Board is an advisory board with one exception, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission related to the protection and improvement of the City's lakes and waterways, with the goal of fostering, maintaining and improving the public stewardship, protection, long-range planning and careful oversight of the implementation of improvement projects for lake and stormwater management. The City acknowledges that the lakes and waterways within the City are a natural resource of great significance. As an exception to the general rule that this is an advisory board, the City Commission may, by ordinance or resolution, assign a quasi-judicial function to this Board with respect to appeals of decisions related to stormwater fees.

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(3) Quasi-Judicial Proceedings With Respect to Stormwater Fees and Appeals Thereof. To the extent the City Commission by ordinance

shall provide that this Board will sit as a quasi-judicial body and consider appeals from decisions related to stormwater fees, then in such cases the Board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Board is in accordance with the requirements of Florida law. In such proceedings, the Board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in Chapter 102, Sections 102-156 through 102-164, as these provisions may be amended from time to time by the City Commission. The provisions hereof are deemed to be incorporated by reference into Chapter 102 of the City Code, relating to stormwater fees and appeals from decisions related to stormwater fees.

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(+)(4) Procedures. The procedures and rules for operation of the Lakes and Waterways Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter, and in accordance with the requirements under Florida law for quasi-judicial proceedings when the Board hears appeals from stormwater fee decisions if such appeals are referred to the Board pursuant to City ordinance or resolution.

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e.p. Parks and Recreation Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Parks and Recreation Board, subject to the following provisions:

(+) (1) Membership. The Parks and Recreation Advisory Board shall be established in accordance with the requirements in Division One of this Chapter, and Article and Article.

(2) Advisory Board. The Parks and Recreation Advisory Board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing of any matter through the Parks and Recreation Advisory Board, then the purpose of such requirement is for the Parks and Recreation Advisory Board to consider the request and to give advice to the City Manager and the City Commission (if the matter will reach the City Commission). The purpose of such proceeding will not be quasi-judicial in nature.

(3) Purpose and Duties. The Parks and Recreation Advisory Board shall promote the parks and recreation programs of the City and will guide, advise and recommend to the City Commission policies and actions regarding the promotion, planning, design, construction and utilization of City parks and recreation programs. The duties of the Parks and Recreation Board will generally be to:

(A) Advise and assist the City Commission, the City Manager and the various boards of the City in all matters involving or affecting parks and recreation.

(B) The Parks and Recreation Advisory Board shall recommend policies for the improvement, creation, use and maintenance of City parks and recreation programs.

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(C) The Parks and Recreation Advisory Board shall recommend budgetary or special appropriations for parks and recreation programs.

(D) The Parks and Recreation Advisory Board shall recommend plans for the future growth, development, use and beautification of City parks.

(E) The Parks and Recreation Advisory Board shall periodically provide the City Commission the public regarding the programs and facilities related to parks and recreation.

p.g. Pedestrian and Bicycle Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Pedestrian and Bicycle Advisory Board, subject to the following provisions:

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~~(1)~~ (1) Membership. The Pedestrian and Bicycle Advisory Board shall be established pursuant to the provisions in Division One of this Chapter ~~and Article. and Article and Article.~~

(2) Advisory Board. The Pedestrian and Bicycle Advisory Board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of Division One of this Chapter and Article ~~and Article~~ shall apply with respect to the operations of the Pedestrian and Bicycle Advisory Board.

(3) Function and Responsibilities. The Pedestrian and Bicycle Advisory Board shall meet and provide for its internal governance procedures as provided in Divisions One ~~and Two~~ of this Chapter and Article. The responsibility of the Pedestrian and Bicycle Advisory Board shall be the following:

A. To receive information and following deliberation, make recommendations and give advice to the City Commission concerning opportunities for improvement, maintenance, construction and facilitation of pedestrian and bicycle traffic in the City of Winter Park.

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B. The Pedestrian and Bicycle Advisory Board, following receipt of information and deliberation, shall determine ways in which pedestrian and bicycle utilization and traffic may be improved, enhanced and made more safe within the City of Winter Park.

C. Following the receipt of information and deliberation, the Pedestrian and Bicycle Advisory Board shall recommend to the City Commission ideas for promoting safe pedestrian and bicycle utilization in the City of Winter Park.

D. The Pedestrian and Bicycle Advisory Board shall provide education to the public and the City Commission concerning the current infrastructure for pedestrian and bicycle transport in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.

q.r. Planning and Zoning Board. There is established within the City of Winter Park, pursuant to Section 163.3174, Florida Statutes, and Section 58-3 of the City Code, a Planning and Zoning Board, subject to the following provisions:

- (1) Membership. The membership of the Planning and Zoning Board shall be appointed pursuant to the provisions in Division One of this Chapter and Article.
- (2) Quasi-Judicial Proceedings. The Planning and Zoning Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Planning and Zoning Board is in accordance with the requirements of Florida law.
- (3) Authority and Responsibilities. The Planning and Zoning Board shall have such authority and responsibilities as are set out in the Land Development Code, including the provisions in Chapter 58 of the City Code, and Sections 58-88, et seq., of the Code. The procedures that the Planning and Zoning Board shall abide by are those set out in the City's Land Development Code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the City's Land Development Code.

P.S. Public Art Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Public Art Advisory Board, subject to the following provisions:

- ~~(1)~~ (1) Membership. The Public Art Advisory Board shall be established in accordance with the requirements of Division One ~~hereof, --this Chapter and Article.~~ The procedures set out in Division ~~One~~ Two ~~hereof this Chapter and Article~~ shall control the operation of the Public Art Advisory Board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the Public Art Advisory Board an architect, including a landscape architect, an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.
- (2) Advisory Board. The Public Art Advisory Board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.
- (3) Responsibilities and Function of the Public Art Advisory Board. The Public Art Advisory Board shall set out its rules for conducting business in accordance with the requirements of Division One of this Chapter and Article, and following the receipt of information and deliberation, the Public Art Advisory Board shall have the following responsibilities and scope of service:
  - (A) Following the receipt of data from various sources and deliberation, the Public Art Advisory Board shall provide advice and recommendations to the City Commission for the siting of public art, and in making these recommendations, the Public Art Advisory Board shall endeavor to perform visual inspections of

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sites to ascertain the physical, cultural and historical aspects of sites being recommended to the City Commission.

- (B) The Public Art Advisory Board shall develop and facilitate a composite map identifying signature opportunities within the City for public art.
- (C) The Public Art Advisory Board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the City Commission.
- (D) The Public Art Advisory Board shall develop a public arts action plan and recommend the same to the City Manager and City Commission for the implementation of educational and organizational opportunities related to and concerning public art.
- (E) The Public Art Advisory Board shall establish and maintain liaison with other public and private agencies involved with public art.
- (F) The Public Art Advisory Board shall advise the City Commission and City Manager in all matters involving or affecting public art.
- (G) The Public Art Advisory Board shall periodically inform the City Commission and the general public regarding programs involving public art within the City of Winter Park.

t. Utility Advisory Board. There is established within the City of Winter Park pursuant to the provisions hereof a Utility Advisory Board, subject to the following provisions:

- (1) Membership. The Utility Advisory Board shall be established pursuant to the procedures in Division One hereof ~~this Chapter, and Article.~~ To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park. One member shall be a non-resident customer of the water and sewer utility.
- (2) Advisory Board. The Utility Advisory Board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.
- (3) Functions and Responsibility. The Utility Advisory Board shall organize itself and develop rules for procedure in accordance with the requirements of Division Two ~~hereof this Chapter, and Article and Article.~~ Following the receipt of information and deliberation, the Utility Advisory Board shall advise the City Commission, City Manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:
  - (A) The Utility Advisory Board shall make recommendations concerning opportunities for enhancement, expansion,

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maintenance, improvement and development of utility services within the City of Winter Park.

(B) The Utility Advisory Board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.

(C) The Utility Advisory Board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.

u. Winter Park Firefighters Pension Board. There is established within the City of Winter Park a Firefighters Pension Board established pursuant to the requirements of Sections 74-153, et seq., of the City Code, subject to the following provisions:

(1) Membership. The Board of Trustees of the Firefighters Pension Board shall be appointed pursuant to the provisions in Section 74-153, City Code.

(2) Responsibilities and Function. The Firefighters Pension Board shall operate in accordance with the requirements of Florida law and Sections 74-153, et seq., of the City Code as the Code relates to the Firefighters Pension Board and the duties and responsibilities of that Board.

v. Winter Park Police Officers' Retirement System Board. There is established within the City of Winter Park a Police Officers' Retirement System Board established pursuant to the requirements of Sections 74-203, et seq., of the City Code, subject to the following provisions:

(1) Membership. The Board of Trustees of the Police Officers' Retirement System Board shall be appointed pursuant to the provisions in Section 74-203, City Code.

(2) Responsibilities and Function. The Police Officers' Retirement System Board shall operate in accordance with the requirements of Florida law and Sections 74-203, et seq., of the City Code as the Code relates to the Police Officers' Retirement System Board and the duties and responsibilities of that Board.

~~v. Utility Advisory Board. There is established within the City of Winter Park pursuant to the provisions hereof a Utility Advisory Board subject to the following provisions:~~

~~w. Membership. The Utility Advisory Board shall be established pursuant to the procedures in Division One of this Chapter and Article. To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park.~~

Comment [r3]: Need to combine these two and call it the Winter Park Firefighter and Police Officer Pension Board



- ~~x. Advisory Board. The Utility Advisory Board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.~~
- ~~y. Functions and Responsibility. The Utility Advisory Board shall organize itself and develop rules for procedure in accordance with the requirements of Division One of this Chapter and Article. Following the receipt of information and deliberation, the Utility Advisory Board shall advise the City Commission, City Manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:~~
- ~~z. The Utility Advisory Board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.~~
- ~~aa. The Utility Advisory Board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.~~
- ~~bb. The Utility Advisory Board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.~~

Section 3. Codification. The previous Section 2 of this Ordinance shall be codified in the City Code as specified therein. Any section, paragraph number, letter or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in the Code, and additions, alterations and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

Section 4. Repeal As A Result Of This Consolidation. As a matter of revision to codification, the following resolutions, ordinances and sections within the City Code are hereby repealed as a result of the consolidation effective as a result of this Ordinance, and the same shall be stricken and deemed repealed as of the effective date of this Ordinance, and shall no longer have further force or effect:

a. Repeal of Resolutions.

- A. The following CRA Advisory Board Resolutions are hereby repealed: 0001; 0002.
- B. The following Economic Development Advisory Board Resolutions are hereby repealed: 2022-09; 1951-06; 1948-06; 1865-04; 1805-02; 1766-01.
- C. The following Ethics Board Resolutions are hereby repealed: 2818-10; 2011-08; 1986-08.
- D. The following Keep Winter Park Beautiful Board Resolutions are hereby repealed: 1977-07; 1555.

*Draft: MODIFIED BY ULB/CM/ACM as of 4/29/11*

- E. The following Lakes and Waterways Board Resolutions are hereby repealed: 1486; 876.
- F. The following Parks and Recreation Commission (now identified as the Parks and Recreation Board) Resolutions are hereby repealed: 1949-06; 607; 582.
- G. The following Pedestrian and Bicycle Board Resolutions are hereby repealed: 1950-06; 1806-02.
- H. The following Utilities Advisory Board Resolutions are hereby repealed: 1716; 1492; 1465.
- b. Repeal of Ordinances and Code Section Provisions.
  - A. The following Public Art Advisory Board Ordinances are hereby repealed: 2675-06; 2562-04; 2494-03; 2487-02.
  - B. Chapter 58, Article VIII, Division Two, Sections 58-441 through 58-446 (related to the Historic Preservation Commission) and the Ordinances establishing these Code sections, 2688-06, 2446-01, and 2425-01.
  - C. Chapter 66, Article II, Sections 66-26 through 66-28 (related to the Parks and Recreation Commission, now known as the Parks and Recreation Board) and Ordinance number 2055.
  - D. Repeal Of Chapter 114, Article II, Sections 114-31 through 114-34 (related to the Lakes and Waterways Advisory Board).
  - E. Repeal of Chapter 2, Article III, Division Five, Sections 2-121 through 2-124 (related to the Public Art Advisory Board) in the City Code.

With respect to all Code sections that are repealed, the Sections shall be returned to the category of "Reserved" in the Municipal Code.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 7. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon adoption of the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2011.

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Mayor Kenneth W. Bradley

*Draft: MODIFIED BY ULB/CM/ACM as of 4/29/11*

ATTEST:

\_\_\_\_\_  
Cindy Bonham, City Clerk

First reading: April 25, 2011

Second reading: \_\_\_\_\_



BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

*Attorneys at Law*

111 N. Orange Ave., Suite 2000  
P.O. Box 2873  
Orlando, Florida 32802-2873  
Phone (407) 425-9566  
Fax (407) 425-9596

**Usher L. Brown**  
Board Certified Civil Trial Lawyer

*ulbrown@orlandolaw.net*

May 3, 2011

Randy Knight, City Manager  
Michelle del Valle, Assistant City Manager  
City of Winter Park  
401 Park Avenue South  
Winter Park, FL 32789

***via email & regular U.S. Mail***

Re: Boards Ordinance

Dear Randy and Michelle:

Please see the most current revised version of the Boards Ordinance. The portions that are highlighted in blue are my additions since sending you the Ordinance on Friday.

Please let me know when you would like to discuss this Ordinance.

Sincerely,



Usher L. Brown

ULB:tla

Enclosure

G:\Docs\City of Winter Park\Boards\Ordinance\lrr.knight and del valle with 5-2-11 revisions.wpd



## **ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA CONSOLIDATING CITY BOARDS AND COMMISSIONS, DEFINING THE DUTIES OF BOARDS AND COMMISSIONS OF THE CITY OF WINTER PARK, AND REPEALING CERTAIN ORDINANCES AND RESOLUTIONS RELATING TO SUBSIDIARY BOARDS AND COMMISSIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Park has at this time several ordinances and resolutions regarding City boards and commissions that are codified in several sections of the Code of the City of Winter Park; and

**WHEREAS**, the City has the authority under the City Charter, Section 2(b), Article VIII of the State Constitution, and Section 166.021(1), Florida Statutes, to exercise any power for municipal purposes except where expressly prohibited by law; and

**WHEREAS**, the City Commission has determined that it is in the interest of the residents of Winter Park and other persons doing business with the City to provide for a uniform and comprehensive division within the City Code, to the extent allowed by law, concerning all subsidiary boards and commissions of the City, and to provide for a consolidation of the rules pertaining to such boards.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, HEREBY ORDAINS AS FOLLOWS**

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated by reference.

Section 2. Replacement of Chapter 2, Article III. Chapter 2, Article III entitled "Boards and Commissions" in the City Code is hereby repealed, and is replaced with the following provisions:

### **DIVISION ONE**

#### **Establishment of City Boards**

- a. Establishment of City Boards. There shall be established in this Division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this Chapter and Article, then the requirements of State statute and the Charter shall control.
- b. List and Size of Boards Established. The following boards and number of members are established. The general requirements are specified in Division

two herein and the board specific requirements are specified in Division Three.

1. Board of Adjustments – Six members, one alternate.
2. Civil Service Board – Seven members, no alternate.
3. Code Enforcement Board – Seven members, one alternate.
4. Community Redevelopment Agency – Six members, no alternate.
5. Community Redevelopment Advisory Board – Seven members, one alternate.
6. Construction Board of Adjustment and Appeals – Seven members, no alternate.
7. Economic Development Advisory Board – Seven members, one alternate.
8. Environmental Review Advisory Board – Nine members, one alternate.
9. Ethics Advisory Board – Five members, one alternate.
10. Historic Preservation Advisory Board – Five members, one alternate.
11. Housing Authority Board – Seven members, no alternate.
12. Independent Personnel Review Board – Five members, no alternate.
13. Keep Winter Park Beautiful Advisory Board – Eleven members, no alternate.
14. Lakes and Waterways Advisory Board – Seven members, one alternate.
15. Parks and Recreation Advisory Board – Seven members, one alternate.
16. Pedestrian and Bicycle Advisory Board – Seven members, no alternate.
17. Planning and Zoning Board – Five members, one alternate.
18. Public Art Advisory Board – Eleven members, no alternate.
19. Tree Preservation Board – Five members, one alternate.
20. Utilities Advisory Board – Nine members, no alternate.
21. Winter Park Firefighter and Police Officer Pension Board – five members, no alternate.

## **DIVISION TWO**

### **General Rules Applicable to Subsidiary Boards of the City of Winter Park**

- a. Date of Appointment of Members. With the exception of the Civil Service Board, the members of all boards of the City shall be appointed by the Mayor, subject to the approval of the City Commission, at the first Commission meeting in May of each year or as soon thereafter as possible and such members shall be seated at the first meeting following May 31<sup>st</sup>. The members of the Civil Service Board shall be appointed in December and be seated effective the third Tuesday in January.
- b. Removal of Members. Members of City boards shall serve at the will of the City Commission and shall be subject to removal at any time, with or without cause, by a majority vote of the City Commission. This provision is intended to be supplemental to, and not in conflict with, the provisions of Section

112.501, Florida Statutes, which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a member is removed for cause, the procedures in Section 112.501, Florida Statutes shall apply.

- c. Resignations. Members of all boards shall be entitled to resign at any time by delivery of written notice thereof to the City Commission.
- d. Quorum. A quorum shall be a majority of the board in attendance physically at a meeting.
- e. Applicability of Rules of Ethics. No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the Code of Ethics for Public Officers and Employees stated in Chapter 112, Florida Statutes, or if such action or vote is in violation of the Code of the City of Winter Park.
- f. Vacancies. The Mayor, subject to approval of the City Commission, shall promptly fill all vacancies, including alternate members, occurring on City boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.
- g. Automatic Advancement of Alternate In the Event of Vacancy. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the City Commission. If there is no alternate, the Mayor shall appoint subject to Commission approval.
- h. Exception to Automatic Advancement. If a vacancy occurs in a board position within sixty (60) days before the end of the term of the member, the position shall remain vacant until filled as part of the regular appointment process by which the Mayor shall appoint the member, subject to the approval of the City Commission, at the first Commission meeting in May of each year.
- i. Representation By Member of Third Parties. No member of a board shall represent a third party in any proceeding before such board to which the member belongs.
- j. Role and Responsibility of Members of Subsidiary Boards of the City of Winter Park. Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various City boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the City and its residents. Although City boards may make recommendations concerning provisions of the City Code, no member of a City board shall, by virtue of such office, have the authority to represent

the City of Winter Park in any action to enforce the City Code or any provision thereof.

- k. Term In Office and Reappointment. Unless otherwise required by Florida Statutes or City Charter, each member of the City's boards shall have an initial term of three (3) years in office and may be reappointed to one (1) additional consecutive three (3) year term. Following a break in service of at least one (1) year, a former member may be appointed again to the same board subject to the limitation expressed herein, that the term shall be for three (3) years with an opportunity to be reappointed for one (1) three (3) year term immediately following the expiration of the initial three (3) year term. For good cause shown, the Mayor may waive this term limitation, subject to approval by majority vote of the Commission.
- l. Attendance, Participation By Telephone, and Procedures If There Is Lack Of A Quorum. Each member of a City board shall be automatically terminated from the board if the member misses three (3) consecutive meetings. Each member of a City board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.
- m. Evaluation Process. Each City board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the Commission. The City Manager shall work with the presiding officer or designee of each City board to insure that the report concerning the evaluation of each board member and each board is presented to the City Commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year.
- n. Task Forces. The City Commission may, from time to time, establish a task force for the study of a particular issue. A task force established by the City Commission will have a limited scope of responsibility and will address only the issue or issues designated, and following the study of such matters shall report the findings of the task force to the Commission with recommendations. Unless otherwise established by the City Commission or extended by action of the Commission, no task force shall continue in existence beyond one hundred eighty (180) consecutive calendar days following the effective date of the decision, Resolution or Ordinance providing for the establishment of the task force.



- o. Sunset Of Boards Unless A Board Is Required By Statute Or Charter. Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each City board shall sunset and terminate every five (5) years following May 1, 2011, unless the board is renewed by a majority vote of the Commission. This will allow the Commission to evaluate the effectiveness and need for the particular board on a regular basis. Notwithstanding this provision, any advisory board may be terminated at any time by a majority vote of the City Commission, unless such board is required by Florida statute or charter. The following quasi-judicial boards will not sunset: Planning and Zoning; Board of Adjustments and Appeals; Code Enforcement; Civil Service; Lakes and Waterways Advisory Board (to the extent it hears stormwater fees appeals). Additionally, without compliance with law, the Community Redevelopment Agency and the Housing Authority may not be terminated.
- p. Expenses and Reimbursement. No member of any board shall receive a salary or fee for service as a member. However, the City Manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the City Manager in writing in advance of the member incurring such expense while on official business for the City, it being a requirement that no expense will be reimbursable unless it is reasonably related to City business performed by a member of a subsidiary board of the City of Winter Park.
- q. Internal Rules of Conduct. Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, Section 286.011, Florida Statutes, and the records thereof shall be public records as required by Chapter 119, Florida Statutes, unless the record is specifically subject to a statutory exemption. The City Manager, City Attorney and/or a designated City staff member shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes and records of official actions shall be public records and retained in the office of the City Clerk.
- r. Residency Requirement. Unless non-residency in the City of Winter Park is a requirement of or allowed by the City Charter, Florida Statutes or Division Three hereof, the Mayor shall appoint to the City Boards persons who are residents in the City of Winter Park.
- s. Provision Of Legal and Staff Services. To the extent not specifically mentioned in Division Three of this Chapter and Article, a subsidiary board of the City of Winter Park may request from the City Manager that the City

Manager direct staff or the City Attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.

- t. Frequency Of Meetings. Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the City Clerk and City Manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.

### **DIVISION THREE** **Description of City Boards**

- a. Divisions One and Two Apply To All City Boards. Except as otherwise provided in this Division, the Charter, or Florida Statutes, the requirements governing City boards stated in Divisions One and Two of this Chapter and Article shall apply to each City board.
- b. Board of Adjustments. There is established within the City of Winter Park, pursuant to the provisions hereof, a Board of Adjustment, subject to the following provisions:
  - (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provision in Divisions One and Two hereof.
  - (2) Quasi-Judicial Proceedings. The Board of Adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Board of Adjustment is in accordance with the requirements of Florida law.
  - (3) Authority. The Board of Adjustment shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the Land Development Code. A request for variance shall be subject to the requirements of the public interest and the Land Development Code, and may be appropriate where, because of special conditions, an interpretation of the provisions of the Code relating to zoning or signs will result in an unnecessary hardship.
  - (4) Scope Of Relief. A variance is authorized to be issued by the Board of Adjustment only for height, area, size of structure, size of yards or landscaped open spaces, size of impervious surfaces and number of parking spaces, or the size of a particular sign. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

- (5) Procedures. The Board of Adjustment shall establish rules and regulations for its own procedures, so long as its rules and regulations are not inconsistent with any provision of the Code of the City of Winter Park, the Charter of the City of Winter Park, and Florida law. The Board of Adjustment shall meet as soon as reasonably possible after a request for variance in accordance with the requirements of the Land Development Code has been received, and shall endeavor to hear such matters within thirty (30) calendar days after a request for a variance is filed. However, for good cause shown, the Board of Adjustment may continue a proceeding for a reasonable period of time, either on the motion of a party, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.
- (6) Procedure For Requesting Variance. The procedure for requesting a variance shall be set out in the City's Land Development Code.
- (7) Decisions. The Board of Adjustment shall reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall be in writing and shall include the reasons for the decision. Each decision will be filed promptly in writing with the City Clerk and City Manager, or designee of the City Manager, and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the party requesting a variance.

Review of each decision of the Board of Adjustment shall be in accordance with the City Code, including its Land Development Code.

- (8) Incorporation Into Land Development Code. The requirements and procedures set out in Chapter 58 of the Code of the City of Winter Park, entitled the "Land Development Code", including Article III thereof for zoning, shall apply to the conduct of the business of the Board of Adjustments, and all of the activity of the Board of Adjustments shall be subject to the provisions of the City's Land Development Code, including the provisions concerning notice and procedures stated in Sections 58-91 and 58-92 of the City Code. By this reference this section is incorporated into the City's Land Development Code.

c. Civil Service Board. There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and Section 4.07 of the City Charter, a Civil Service Board, subject to the following provisions:

- (1) Membership. Membership of the Civil Service Board shall be as provided in Section 74-52 of the City Code. The provisions of Divisions One and Two hereof shall apply to the extent those general provisions are not in conflict with Section 74-52 of the City Code. In the event of any conflict between Division One and Section 74-52, the provisions of Section 74-52 of the City Code shall control. The Civil Service Board shall have seven (7) members. Five (5) members shall be appointed by the City Commission in the manner provided in Division One of this Chapter and Article and Article, and such appointees shall be persons of

different vocations residing in the City who are not employed by the City. The remaining two (2) members shall be chosen, one (1) by the members of the police department and one (1) by the members of the fire department, according to election procedures set out in Chapter 74, Article III, Section 74-51, et seq., of the City Code. The Chief of Police and Chief of the Fire Department shall be ex officio members of the Civil Service Board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian members of the Board will be three (3) years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one (1) year. The remaining details concerning membership are set out in Section 74-52 of the City Code.

- (2) Quasi-Judicial Proceedings. The Civil Service Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Civil Service Board is in accordance with the requirements of Florida law.
- (3) Authority. The Civil Service Board shall have such authority and responsibility as set out in Chapter 74, Article III, Sections 74-51, et seq., of the City Code, which concerns the Civil Service Board, and shall abide by the procedural and substantive requirements set out in said sections in Chapter 74 relating to the Board. To the extent the general provisions in Divisions One and Two hereof are not in conflict with Chapter 74, then the provisions in Divisions One and Two shall apply, but only to the extent that such provisions supplement and are not in conflict with the provisions of Chapter 74.

d. Code Enforcement Board. There is established within the City of Winter Park pursuant to Section 162.05, Florida Statutes, and by the authority of the City Commission, a Code Enforcement Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Divisions One and Two hereof. Members shall be residents of the City. In accordance with subsection 162.05(2), Florida Statutes, the membership of the Code Enforcement Board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (2) Quasi-Judicial Proceedings. The Code Enforcement Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Code Enforcement Board is in accordance with the requirements of Florida law.
- (3) Authority. The Code Enforcement Board shall have such responsibility and jurisdiction to respond to such matters as are set out in Chapter 162, Florida Statutes, and, Chapter 2, Article III, Sections 2-101, et seq., of

the City Code. In performing its function, the Code Enforcement Board shall be governed by the procedures set out in Florida law and Sections 2-101, et seq., of the City Code.

The provisions in Division Two of this Chapter and Article shall apply to the conduct of the Code Enforcement Board except to the extent that the provisions in Divisions One and Two conflict with a provision in Chapter 2, Article III, Sections 2-101, et seq., of the City Code or Florida law.

- e. Community Redevelopment Agency. There is established within the City of Winter Park pursuant to the provisions hereof, a Community Redevelopment Agency, subject to the following provisions:
  - (1) Membership. Pursuant to Section 163.356, Florida Statutes, the term of office of the members of the Community Redevelopment Agency shall be for four (4) years, and the members are referred to as commissioners in said statute. The City Commission shall serve as five (5) commissioners on the Community Redevelopment Agency, and the County shall appoint the sixth (6<sup>th</sup>) commissioner to the Agency. The City Commission may remove a commissioner of the Community Redevelopment Agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten (10) days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in subsection 163.356(4), Florida Statutes. Otherwise, the provisions in Divisions One and Two hereof shall apply to the Community Redevelopment Agency.
  - (2) Scope Of Authority. The Community Redevelopment Agency shall constitute a separate and distinct entity to the extent provided under Florida law and shall have such powers as are provided to community redevelopment agencies as set out in Part III, of Chapter 163, Florida Statutes, Sections 163.330, et seq., relating to community redevelopment.
- f. Community Redevelopment Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Community Redevelopment Advisory Board, subject to the following provisions:
  - (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter and Article and Article.
  - (2) Advisory Board. The Community Redevelopment Advisory Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to community redevelopment. The Community Redevelopment Advisory Board shall have no adjudicatory or enforcement authority.

- (3) Procedures. The procedures and rules for operation of the Community Redevelopment Advisory Board shall be in accordance with the general requirements stated in Division Two hereof.
- g. Construction Board of Adjustments and Appeals.
- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provision in Division One and Two of this Chapter and Article.
- (2) There is established a board to be called the Construction Board of Adjustments and Appeals. This Construction Board of Adjustments and Appeals shall be deemed a "local construction regulation board" as defined in Section 489.101(12), Florida Statutes, which means a board composed of not fewer than three (3) residents of the City, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the Construction Board of Adjustments and Appeals shall consist of residents, at least one of whom is a practicing architect, one a structural engineer, one a licensed general contractor, and the remaining two positions consisting of a master electrician, master plumber, or mechanical contractor or mechanical engineer.
- (3) Quasi-Judicial Proceedings. The Construction Board of Adjustments and Appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of the application of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the City Attorney or City Manager will provide technical support and advice to the Construction Board of Adjustments and Appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.
- (4) Secretary of the Construction Board of Adjustments and Appeals. The building official shall act as secretary of the Construction Board of Adjustments and Appeals and shall be responsible to make minutes of the official proceedings of the Board as required by law. The Construction Board of Adjustments and Appeals shall notify all persons who appear before it that it is the obligation of a party to insure that a court reporter or other means for a verbatim transcript acceptable to a court is available if a party wishes to make a record for judicial review of any action.
- (5) Authority. The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the City who is found by the Construction Board of

Adjustments and Appeals to be guilty of one or more of the following acts or omissions:

- (A) Fraud or deceit in obtaining a certificate of competency.
  - (B) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its Land Development Code.
  - (C) Willful and deliberate disregard of, or violation of the City's Code, including its Land Development Code, or of any state statute concerning contractor licenses.
- (6) Decision of the Building Official. An owner of a building, structure, service system or other construction component, or duly authorized agent thereof, may appeal a decision of the building official to the Construction Board of Adjustments and Appeals whenever any of the following conditions are alleged:
- (A) It is alleged that the building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
  - (B) It is alleged that the provisions of the City Code do not apply to the specific case at issue.
  - (C) It is alleged that an equally good or more desirable form of installation or construction may be employed in the specific case at issue.
  - (D) It is alleged that the intent or meaning of the building code or any of the regulations thereunder are misconstrued or incorrectly interpreted by the building official.
- (7) Procedures. The Construction Board of Adjustments and Appeals shall establish rules and regulations for its own procedure, but its rules and regulations must be consistent with any provision of the Code and Charter of the City of Winter Park, and Florida law. The Construction Board of Adjustments and Appeals shall meet as soon as reasonably possible after a notice of appeal is received, and shall endeavor to hear appeals within thirty (30) calendar days after an appeal is filed. However, for good cause shown the Construction Board of Adjustments and Appeals may continue appeals for a reasonable period of time, either on the motion of a party, including the building official, or in the interest of justice, which may include the reasonable need to delay the hearing to facilitate the receipt of complete information necessary for rendering a decision.
- (8) Procedures for Filing Notice of Appeal. The notice of appeal shall be in writing and filed within thirty (30) calendar days after the first occasion on which the subject decision at issue is rendered by the building official. The appeal shall contain sufficient information such that the building official may reasonably understand the issue presented for appeal and the general nature of the argument and alternative proposals made by the party initiating the appeal. If the building official requires

clarification of the appeal, he shall request clarification from the party making the appeal within three (3) business days from the date on which the appeal is filed. The appellant shall thereafter have ten (10) business days to file the clarification requested by the building official, and if the clarification is filed timely, then the appeal shall be considered timely.

- (9) Unsafe Or Dangerous Buildings Or Service Systems. If a building, structure or service system is unsafe, unsanitary or dangerous in the opinion of the building official, then the building official shall have the authority to order a shorter period of time for the appeal, which shortened period of time shall be reasonable under all of the circumstances presented, and the building official under such conditions may order a suspension of the work pending the resolution of the appellate process.
- (10) Decisions. The Construction Board of Adjustments and Appeals shall reach a decision without unreasonable or unnecessary delay. Each decision of the Construction Board of Adjustments and Appeals shall be in writing and shall include the reasons for the decision. If the decision reverses or modifies a refusal, order or disallowance originally made by the building official, or varies the application of any provision of the Code, the building official shall immediately take action in accordance with the decision. Each decision will be filed promptly in writing in the office of the building official and open to public inspection. A copy of the decision will be sent by mail or hand delivery to the appellant, and a copy shall be maintained as a public record in the office of the building official.

Each decision of the Construction Board of Adjustments and Appeals is final, subject to such remedies as the aggrieved party may have in law or equity. Appeals from the decisions of the Construction Board of Adjustments and Appeals relating to the Florida Building Code, other than appeals regarding local amendments to the Building Code, may be appealed to the Florida Building Commission pursuant to Section 120.569, Florida Statutes. Other decisions may be subject to judicial review as provided by law.

- (11) Incorporation Into Land Development Code. These provisions relating to the Construction Board of Adjustments and Appeals shall be deemed to be a part of the City's Land Development Code and are incorporated into the Land Development Code by this reference.

h. Economic Development Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, an Economic Development Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter.
- (2) Advisory Board. The Economic Development Advisory Board is an advisory board and shall, after receiving such information as it deems



appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning economic development. This Advisory Board shall also review proposed comprehensive plan amendments pertaining to economic development, and shall provide direction and advice to the City Commission regarding the same. The Economic Development Advisory Board shall have the authority to establish other areas of interest that it deems relevant in the interest of the City of Winter Park and its residents with respect to quality and sustainable economic development consistent with the goals and objectives of the City of Winter Park and the Charter thereof. The Economic Development Advisory Board shall have no adjudicatory or enforcement authority.

- (3) Procedures. The procedures and rules for operation of the Economic Development Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

i. Environmental Review Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, an Environmental Review Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One of this Chapter.
- (2) Advisory Board. The Environmental Review Advisory Board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to a sustainable quality environment within Winter Park, and shall inform, educate and advise the City, public and private organizations, and the City Commission, regarding matters and issues of importance with respect to maintaining and improving the environment of the City of Winter Park with respect to all of the natural resources within the City. Although other boards within the City may have interest in specific issues and matters related to natural resources, the Environmental Review Advisory Board shall have the responsibility to review and advise the City Commission with respect to all of the City's natural resources, with a special focus on matters that are of City-wide environmental concern or implication.
- (3) Procedures. The procedures and rules for operation of the Environmental Review Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

j. Ethics Advisory Board. Pursuant to the City Charter, there is established within the City of Winter Park an Ethics Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Division One hereof.

- (2) Advisory Board. The Ethics Advisory Board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to ethics in the governance of the City of Winter Park. The Ethics Advisory Board shall have no adjudicatory or enforcement authority.
  - (3) Procedures. The procedures and rules for operation of the Ethics Advisory Board shall be in accordance with the general requirements stated in Division Two hereof.
- k. Historic Preservation Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Historic Preservation Advisory Board, subject to the following provisions:
- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in Divisions One and Two of this Chapter and Article.
  - (2) Members of the Historic Preservation Advisory Board shall be residents of the City and shall have demonstrated civic pride, interest in historic preservation, and the knowledge, experience and mature judgment to act in the public interest to make informed, and equitable decisions concerning the conservation of historic resources.
  - (3) At a minimum, one (1) member of the Historic Preservation Advisory Board shall be an architect. Other members may have experience, expertise or demonstrated interest in one or more areas such as architecture, history, archaeology, urban planning, landscape, historic preservation, real estate, law, cultural anthropology and building construction.
  - (4) Functions, Powers and Duties Of the Historic Preservation Board. The Historic Preservation Advisory Board shall be responsible for the development and administration of a comprehensive historic preservation program, and shall identify and maintain the City's historic resources for the benefit of both present and future residents. The responsibility of the Historic Preservation Advisory Board shall include the following:
    - (A) The Historic Preservation Advisory Board shall recommend to the City Commission incentives for historic preservation, and shall recommend for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File survey of the City of Winter Park. In conducting these responsibilities, the Historic Preservation Advisory Board shall be an advisory board.
    - (B) The Historic Preservation Advisory Board shall identify potential historic landmarks and potential historic districts for designation, and will provide assistance to and education of owners of properties for potential designation. In providing these services,

the Historic Preservation Advisory Board shall act as an advisory and educational board and shall not have adjudicatory or enforcement authority.

- (C) The Historic Advisory Preservation Board shall develop and maintain a register of historic places within the City of Winter Park and will review National Register nominations within the City. These functions shall be advisory only.
- (D) The Historic Preservation Advisory Board shall recommend guidelines based upon the Secretary of the Interior's Guidelines for use in reviewing applications for certificates of review. The Historic Preservation Advisory Board may suggest to the City Commission other guidelines to be used in reviewing applications, but in this function the Historic Preservation Advisory Board is advisory in nature and does not have adjudicatory or enforcement functions.
- (E) The Historic Preservation Advisory Board shall review applications for certificates of review for designated landmarks, resources and property within designated districts, and shall give advice and recommendations concerning the same to the City Commission.
- (F) The Historic Preservation Advisory Board shall review requests for variances that may be appropriate for the preservation of historic resources in conjunction with applications for certificates of review, and shall make such recommendations to the Board of Adjustments and the City Commission as may be appropriate in the determination of the Historic Preservation Advisory Board. In conducting this function, the Historic Preservation Advisory Board is advisory in nature only, and does not have quasi-judicial or enforcement authority.
- (G) The Historic Preservation Advisory Board will conduct ongoing surveys and inventory of historically, culturally or architecturally significant buildings, structures, districts and archaeological sites within the City, and shall coordinate survey results with the Florida Master Site File.
- (H) The Historic Preservation Advisory Board may request the City Manager to provide funds, technical support, consultants and staff with professional expertise as may be necessary to conduct projects determined by the Historic Preservation Advisory Board to be advisable. The Historic Preservation Advisory Board does not have the authority to incur expenses on behalf of the City of Winter Park, but may recommend such projects to the City Manager as it deems to be in the interest of the City of Winter Park, consistent with the mission of the Historic Preservation Advisory Board.
- (I) The Historic Advisory Preservation Board will develop educational programs to stimulate public interest and involvement

in the City's history and preservation, and shall develop programs to continuously inform the public of the City's preservation opportunities and the activities of the Historic Preservation Advisory Board.

(J) The City Manager may authorize the Historic Preservation Advisory Board or members thereof to work with other local governments or state and federal government authorities with respect to preservation activities, and the City Manager may authorize the expenditure of City funds for such purpose.

(K) The members of the Historic Preservation Advisory Board are encouraged to attend relevant educational meetings, workshops and conferences, and the City Manager may authorize, subject to the requirements in Division One of this Chapter and Article and Article, the expenditure of City funds for such purposes.

l. Housing Authority Board. There is established within the City of Winter Park pursuant to the provisions hereof, a Housing Authority Board subject to the following provisions:

(1) Membership. The provisions of Division One of this Chapter and Article shall apply to the membership and means of appointment thereof, subject to the provisions in Chapter 421, including Section 421.05, Florida Statutes.

(2) Independent Authority. The Housing Authority Board is an independent housing authority established pursuant to Chapter 421, Florida Statutes.

(3) Declaration Of Need. Pursuant to Section 421.04, Florida Statutes, the City declares that there is a need for the establishment of the Housing Authority Board pursuant to the requirements and provisions of Chapter 421, Florida Statutes.

(4) Authority and Scope Of Responsibility. The Housing Authority Board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in Chapter 421, Florida Statutes and rules promulgated by administrative agencies of the State of Florida pursuant to Chapter 421.

(5) Incorporation of Division Two of this Chapter and Article. The provisions of Division Two of this Chapter and Article are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.

m. Independent Personnel Review Board. There is established within the City of Winter Park, pursuant to the provisions hereof, an Independent Personnel Review Board pursuant to the requirements in Section 4.05 of the City Charter and Chapter 74, Article II, Sections 74-26, et seq., of the City Code, subject to the following provisions:

(1) Membership. The Independent Personnel Review Board shall consist of the five non-city employee members of the Civil Service Board.

(2) Quasi-Judicial Proceedings. The Independent Personnel Review Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and Chapter 74, Article II, Section 74-26, et

seq., of the City Code. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Independent Personnel Review Board is in accordance with the requirements of Florida law.

- (3) Authority and Responsibility. The duties and responsibility of the Independent Personnel Review Board are set out in Chapter 74, Article II, Sections 74-26, et seq., of the City Code and Section 4.05 of the City Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this Independent Personnel Review Board.

n. Keep Winter Park Beautiful Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, a Keep Winter Park Beautiful Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provision in Division One of this Chapter.
- (2) Advisory Board. The Keep Winter Park Beautiful Advisory Board is an advisory board, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission concerning matters related to the promotion of beautification and maintenance of the beauty of the City of Winter Park, including but not limited to advice regarding the maintenance and improvement of the appearance of the public spaces within the City. The Keep Winter Park Beautiful Advisory Board shall have no adjudicatory or enforcement authority. However, the Keep Winter Park Beautiful Advisory Board shall have the authority to develop and explore opportunities for fundraising and other awareness programs, but all of such opportunities shall be subject to the ordinances, resolutions and policies for such purposes established from time to time by the City Commission, and the Keep Winter Park Beautiful Advisory Board shall have no authority to commit or obligate the City with respect to the terms, conditions, or any other matters related to fundraising or commitments or agreements related to fundraising. The role and function of this Board with respect to fundraising is to explore opportunities and to give advice and make recommendations to the City Commission, and in all instances the City Commission shall be the responsible entity to enter specific fundraising programs on behalf of the City of Winter Park.
- (3) Procedures. The procedures and rules for operation of the Keep Winter Park Beautiful Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter.

o. Lakes and Waterways Advisory Board. Pursuant to the authority of the City Commission, there is established within the City of Winter Park, a Lakes and Waterways Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions of Division One of this Chapter.
  - (2) With Exception This Is An Advisory Board. The Lakes and Waterways Advisory Board is an advisory board with one exception, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the City Commission related to the protection and improvement of the City's lakes and waterways, with the goal of fostering, maintaining and improving the public stewardship, protection, long-range planning and careful oversight of the implementation of improvement projects for lake and stormwater management. The City acknowledges that the lakes and waterways within the City are a natural resource of great significance. As an exception to the general rule that this is an advisory board, the City Commission may, by ordinance or resolution, assign a quasi-judicial function to this Board with respect to appeals of decisions related to stormwater fees.
  - (3) Quasi-Judicial Proceedings With Respect to Stormwater Fees and Appeals Thereof. To the extent the City Commission by ordinance shall provide that this Board will sit as a quasi-judicial body and consider appeals from decisions related to stormwater fees, then in such cases the Board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Board is in accordance with the requirements of Florida law. In such proceedings, the Board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in Chapter 102, Sections 102-156 through 102-164, as these provisions may be amended from time to time by the City Commission. The provisions hereof are deemed to be incorporated by reference into Chapter 102 of the City Code, relating to stormwater fees and appeals from decisions related to stormwater fees.
  - (4) Procedures. The procedures and rules for operation of the Lakes and Waterways Advisory Board shall be in accordance with the general requirements stated in Division Two of this Chapter, and in accordance with the requirements under Florida law for quasi-judicial proceedings when the Board hears appeals from stormwater fee decisions if such appeals are referred to the Board pursuant to City ordinance or resolution.
- p. Parks and Recreation Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Parks and Recreation Board, subject to the following provisions:

- (1) Membership. The Parks and Recreation Advisory Board shall be established in accordance with the requirements in Division One of this Chapter.
- (2) Advisory Board. The Parks and Recreation Advisory Board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing of any matter through the Parks and Recreation Advisory Board, then the purpose of such requirement is for the Parks and Recreation Advisory Board to consider the request and to give advice to the City Manager and the City Commission (if the matter will reach the City Commission). The purpose of such proceeding will not be quasi-judicial in nature.
- (3) Purpose and Duties. The Parks and Recreation Advisory Board shall promote the parks and recreation programs of the City and will guide, advise and recommend to the City Commission policies and actions regarding the promotion, planning, design, construction and utilization of City parks and recreation programs. The duties of the Parks and Recreation Board will generally be to:
  - (A) Advise and assist the City Commission, the City Manager and the various boards of the City in all matters involving or affecting parks and recreation.
  - (B) The Parks and Recreation Advisory Board shall recommend policies for the improvement, creation, use and maintenance of City parks and recreation programs.
  - (C) The Parks and Recreation Advisory Board shall recommend budgetary or special appropriations for parks and recreation programs.
  - (D) The Parks and Recreation Advisory Board shall recommend plans for the future growth, development, use and beautification of City parks.
  - (E) The Parks and Recreation Advisory Board shall periodically provide the City Commission the public regarding the programs and facilities related to parks and recreation.

q. Pedestrian and Bicycle Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Pedestrian and Bicycle Advisory Board, subject to the following provisions:

- (1) Membership. The Pedestrian and Bicycle Advisory Board shall be established pursuant to the provisions in Division One of this Chapter and Article.
- (2) Advisory Board. The Pedestrian and Bicycle Advisory Board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of Division One of this Chapter and Article shall apply with respect to the operations of the Pedestrian and Bicycle Advisory Board.
- (3) Function and Responsibilities. The Pedestrian and Bicycle Advisory Board shall meet and provide for its internal governance procedures as provided in Divisions One and Two of this Chapter and Article. The

responsibility of the Pedestrian and Bicycle Advisory Board shall be the following:

- (A) To receive information and following deliberation, make recommendations and give advice to the City Commission concerning opportunities for improvement, maintenance, construction and facilitation of pedestrian and bicycle traffic in the City of Winter Park.
- (B) The Pedestrian and Bicycle Advisory Board, following receipt of information and deliberation, shall determine ways in which pedestrian and bicycle utilization and traffic may be improved, enhanced and made more safe within the City of Winter Park.
- (C) Following the receipt of information and deliberation, the Pedestrian and Bicycle Advisory Board shall recommend to the City Commission ideas for promoting safe pedestrian and bicycle utilization in the City of Winter Park.
- (D) The Pedestrian and Bicycle Advisory Board shall provide education to the public and the City Commission concerning the current infrastructure for pedestrian and bicycle transport in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.

r. Planning and Zoning Board. There is established within the City of Winter Park, pursuant to Section 163.3174, Florida Statutes, and Section 58-3 of the City Code, a Planning and Zoning Board, subject to the following provisions:

- (1) Membership. The membership of the Planning and Zoning Board shall be appointed pursuant to the provisions in Division One of this Chapter and Article.
- (2) Quasi-Judicial Proceedings. The Planning and Zoning Board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The City Manager and City Attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the Planning and Zoning Board is in accordance with the requirements of Florida law.
- (3) Authority and Responsibilities. The Planning and Zoning Board shall have such authority and responsibilities as are set out in the Land Development Code, including the provisions in Chapter 58 of the City Code, and Sections 58-88, et seq., of the Code. The procedures that the Planning and Zoning Board shall abide by are those set out in the City's Land Development Code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the City's Land Development Code.

s. Public Art Advisory Board. There is established within the City of Winter Park, pursuant to the provisions hereof, a Public Art Advisory Board, subject to the following provisions:

- (1) Membership. The Public Art Advisory Board shall be established in accordance with the requirements of Division One hereof. The



procedures set out in Division Two hereof shall control the operation of the Public Art Advisory Board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the Public Art Advisory Board an architect, including a landscape architect, an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.

- (2) Advisory Board. The Public Art Advisory Board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.
- (3) Responsibilities and Function of the Public Art Advisory Board. The Public Art Advisory Board shall set out its rules for conducting business in accordance with the requirements of Division One of this Chapter and Article, and following the receipt of information and deliberation, the Public Art Advisory Board shall have the following responsibilities and scope of service:
  - (A) Following the receipt of data from various sources and deliberation, the Public Art Advisory Board shall provide advice and recommendations to the City Commission for the siting of public art, and in making these recommendations, the Public Art Advisory Board shall endeavor to perform visual inspections of sites to ascertain the physical, cultural and historical aspects of sites being recommended to the City Commission.
  - (B) The Public Art Advisory Board shall develop and facilitate a composite map identifying signature opportunities within the City for public art.
  - (C) The Public Art Advisory Board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the City Commission.
  - (D) The Public Art Advisory Board shall develop a public arts action plan and recommend the same to the City Manager and City Commission for the implementation of educational and organizational opportunities related to and concerning public art.
  - (E) The Public Art Advisory Board shall establish and maintain liaison with other public and private agencies involved with public art.
  - (F) The Public Art Advisory Board shall advise the City Commission and City Manager in all matters involving or affecting public art.
  - (G) The Public Art Advisory Board shall periodically inform the City Commission and the general public regarding programs involving public art within the City of Winter Park.

- t. Utility Advisory Board. There is established within the City of Winter Park pursuant to the provisions hereof a Utility Advisory Board, subject to the following provisions:

- (1) Membership. The Utility Advisory Board shall be established pursuant to the procedures in Division One hereof. To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park. One member shall be a non-resident customer of the water and sewer utility.
  - (2) Advisory Board. The Utility Advisory Board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.
  - (3) Functions and Responsibility. The Utility Advisory Board shall organize itself and develop rules for procedure in accordance with the requirements of Division Two hereof. Following the receipt of information and deliberation, the Utility Advisory Board shall advise the City Commission, City Manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:
    - (A) The Utility Advisory Board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.
    - (B) The Utility Advisory Board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.
    - (C) The Utility Advisory Board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.
- u. Winter Park Firefighters Pension Board. There is established within the City of Winter Park a Firefighters Pension Board established pursuant to the requirements of Sections 74-153, et seq., of the City Code, subject to the following provisions:
- (1) Membership. The Board of Trustees of the Firefighters Pension Board shall be appointed pursuant to the provisions in Section 74-153, City Code
  - (2) Responsibilities and Function. The Firefighters Pension Board shall operate in accordance with the requirements of Florida law and Sections 74-153, et seq., of the City Code as the Code relates to the Firefighters Pension Board and the duties and responsibilities of that Board.
- v. Winter Park Police Officers' Retirement System Board. There is established within the City of Winter Park a Police Officers' Retirement System Board established pursuant to the requirements of Sections 74-203, et seq., of the City Code, subject to the following provisions:

- (1) Membership. The Board of Trustees of the Police Officers' Retirement System Board shall be appointed pursuant to the provisions in Section 74-203, City Code.
- (2) Responsibilities and Function. The Police Officers' Retirement System Board shall operate in accordance with the requirements of Florida law and Sections 74-203, et seq., of the City Code as the Code relates to the Police Officers' Retirement System Board and the duties and responsibilities of that Board.

Section 3. Codification. The previous Section 2 of this Ordinance shall be codified in the City Code as specified therein. Any section, paragraph number, letter or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in the Code, and additions, alterations and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

Section 4. Repeal As A Result Of This Consolidation. As a matter of revision to codification, the following resolutions, ordinances and sections within the City Code are hereby repealed as a result of the consolidation effective as a result of this Ordinance, and the same shall be stricken and deemed repealed as of the effective date of this Ordinance, and shall no longer have further force or effect:

- a. Repeal of Resolutions.
  - A. The following CRA Advisory Board Resolutions are hereby repealed: 0001; 0002.
  - B. The following Economic Development Advisory Board Resolutions are hereby repealed: 2022-09; 1951-06; 1948-06; 1865-04; 1805-02; 1766-01.
  - C. The following Ethics Board Resolutions are hereby repealed: 2818-10; 2011-08; 1986-08.
  - D. The following Keep Winter Park Beautiful Board Resolutions are hereby repealed: 1977-07; 1555.
  - E. The following Lakes and Waterways Board Resolutions are hereby repealed: 1486; 876.
  - F. The following Parks and Recreation Commission (now identified as the Parks and Recreation Board) Resolutions are hereby repealed: 1949-06; 607; 582.
  - G. The following Pedestrian and Bicycle Board Resolutions are hereby repealed: 1950-06; 1806-02.
  - H. The following Utilities Advisory Board Resolutions are hereby repealed: 1716; 1492; 1465.
- b. Repeal of Ordinances and Code Section Provisions.
  - A. The following Public Art Advisory Board Ordinances are hereby repealed: 2675-06; 2562-04; 2494-03; 2487-02.
  - B. Chapter 58, Article VIII, Division Two, Sections 58-441 through 58-446 (related to the Historic Preservation Commission) and the

Ordinances establishing these Code sections, 2688-06, 2446-01, and 2425-01.

- C. Chapter 66, Article II, Sections 66-26 through 66-28 (related to the Parks and Recreation Commission, now known as the Parks and Recreation Board) and Ordinance number 2055.
- D. Repeal Of Chapter 114, Article II, Sections 114-31 through 114-34 (related to the Lakes and Waterways Advisory Board).
- E. Repeal of Chapter 2, Article III, Division Five, Sections 2-121 through 2-124 (related to the Public Art Advisory Board) in the City Code.

With respect to all Code sections that are repealed, the Sections shall be returned to the category of "Reserved" in the Municipal Code.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 7. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon adoption of the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor Kenneth W. Bradley

ATTEST:

\_\_\_\_\_  
Cindy Bonham, City Clerk

First reading: April 25, 2011

Second reading: \_\_\_\_\_

## Memorandum

**To: Randy Knight**  
**For forward to Mayor and Commissioners**

**From: Carolyn Cooper**

**Re: Quasi judicial Boards Removal for “Cause”**

**Date: May 3, 2011**

### Summary/Recommendation:

1. There is what appears to be an internal inconsistency in our codes regarding whether members of quasi-judicial boards, responsible for application of state statutes and our local ordinances are subject to removal “for cause” or serve at the “will of the city commission” and can be removed with or without cause.
2. The codes that call for removal “for cause” are more specific in nature than the codes permitting removal “at the will of the commission”. Additionally, the codes requiring removal “for cause” have been reviewed and amended more recently than the general code allowing the removal of all board members at the “will of the commission.” I believe the more specific ordinances take precedence over the general code Chapter 2, Sec 2-47.
3. These quasi judicial boards, specifically the local planning agency (P&Z), were created and authorized under general law and the specific requirement for removal for cause by our local codes presumes that removal of these board members would be subject to Chap 112.501 f.s.
4. Chap 112.501 f.s. specifically defines “municipal board members” and the process by which they can be removed. I believe this statute implies a requirement for removal for cause.
5. The current code requirements for removal for “cause” of our boards charged with responsibility for quasi judicial actions impacting land use decisions is a **well conceived governance model and not a misguided inconsistency**. Sec 2-47 already exempts the Board of Adjustment from removal without cause. I believe not amending Sec 2-47 overtime to include Planning & Zoning, Code Enforcement Board, and Stormwater Board of Appeals (boards specifically requiring removal for “cause”) was an oversight. These boards all share commonality with the Board of Adjustment. They all serve in a quasi-judicial capacity.
6. The recent proposed revision to the Ordinance governing City Boards states that all board members serve “at the will of the commission” and can therefore be removed with or without cause. I recommend we not do away with the “for cause” protections currently afforded members of our quasi-judicial boards.

**Consider the following State Statute and Winter Park Code of Ordinances:**

1. Florida Statute 112.501 **Municipal board members**; suspension, removal.

This statute defines “municipal board member” and provides authority and process for removal. The statute presumes removal of board members for cause.

112.501 f.s. Municipal board members; suspension; removal.

(1) For the purposes of this section, the term “municipal board member” is defined as any person who is appointed or confirmed by the governing body of a municipality to be a member of a board, commission, authority, or council which is created or authorized by general law, special act, or municipal charter.

(8) This section applies in the absence of a charter provision. (Since we have no charter provision I believe this section of statute applies.)

2. Chapter 2, Administration; Article III, Boards and Commissions; Div 1. Generally,

Sec 2-47: Members of all boards and commissions **except the board of adjustment** shall serve at the will of the city commission and shall be subject to removal at any time, **with or without cause**, by a majority vote of the city commission. (*Code 1960, § 2-2.2*)

3. Chap 2, Administration; Article III, Boards and Commissions; **Div 4. Code Enforcement Board**

Sec 2-102 – Board removal

(e)

Members of the code enforcement board may be suspended and removed from office **for cause** by the city commission.

(*Code 1960, § 9B-1; Ord. No. 2058, § 3, 9-13-94; Ord. No. 2674-06, § 1, 6-26-06*)

4. Chapter 58, Land Development Code; Article I, Comprehensive Plan,

Sec. 58-3. - Local planning agency.

(a)

Pursuant to F.S. ch. 163.3174, the city planning and zoning commission is designated as the local planning agency for the review and recommendations on this comprehensive plan and its implementing land development and other regulations.

(b)

Pursuant to Chapter 163.360, the city planning and zoning commission shall also review and provide recommendations on any community redevelopment plans.

(*Ord. No. 2776-09, § 1, 9-14-09; Ord. No. 2793-10, § 1, 1-25-10*)

5. Chapter 58, Land Development Code; Article III, Zoning,

Sec. 58-88. - The **planning and zoning commission**.

(b) Removal of members and filling vacancies. Members of the planning and zoning commission may be removed **for cause** by a majority vote of the city commission..  
(Ord No 2796-10, 2-22-10)

Sec. 58-91. - **Board of adjustment**—Establishment and procedure.

(d)

Members may be removed **for cause** by a majority vote of the city commission upon written charges and after a public hearing.  
(Ord No 2796-10, 2-22-10)

6. The **Stormwater Board of Appeals** was repealed a few years back but when it was enacted by Ordinance 1913, it also afforded its members protection of removal **for “cause”**.

\*\*\*

I feel strongly that boards serving in a quasi judicial capacity, especially Planning and Zoning that must apply our codes to land use decisions and are charged with responsibility for review and recommendations of comprehensive plan and community redevelopment plans, must be granted the protection of removal for “cause”. This board provides **checks and balances regarding major land use decisions**. The Commission needs recommendations from P&Z that are code based and not driven by political pressures or fear of losing one’s position on a city board.

A recent letter we received from a prior P&Z member stated my concerns clearly:

*“While the City Commission addresses a very wide range of issues on behalf of our residents and businesses, P&Z has a limited role in reviewing the proposed comprehensive plan and amendments, the land use plan and changes, and ordinances plus required building plan and use reviews.*

*The reviews - for plans and usage - require careful consideration of the relevant sections of the land use code and application of them to the particular situation. Sometimes the reviews include information from the police and fire department to be sure public safety issues are addressed. P&Z reviews do not consider economic or political or any other factors, for that matter. P&Z review is critical in maintaining the credibility of the City’s commitment to its land use documents.*

*The City Commission has the ability to consider additional factors, including agreements with other localities, CRA goals, and City infrastructure investments. The City Commission’s decision may vary from P&Z’s decisions, including overruling a negative decision, but the citizens and residents expect a strong, transparent rationale for an overruling because of our expectations about the continuity of land use decisions, i.e., precedent. This is the consistency that is important in land use decision-making.*

*Because of the potential tension between the findings and decisions of the Planning & Zoning Commission and the City Commission, it is important for the members of P&Z to complete their terms without the potential of removal without cause.”*



# city commission public hearing

item type	Public Hearing	meeting date	May 9, 2011
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Comm.	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	5-0 final vote

## Subject

This ordinance was requested by the City Commission in January, 2011 to review the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications.

While this process was ongoing, as part of the City Commission's strategic planning session, the goal of streamlining the "zoning approval" process has become a priority or strategic goal. Staff has developed an initial list of suggestions for code changes to help "streamline" the process and has discussed the list with P&Z at their April 27<sup>th</sup> work session. So the City Commission can proceed with this ordinance or wait for the "bigger picture" modifications that will be forthcoming.

## Recommendation

**The Planning Commission voted 5-0 to recommend approval** at its April 5<sup>th</sup> meeting. This revision was also discussed by the Planning Commission at its work session on January 26, 2011.

## Summary

The major change with this ordinance is to split into two separate subsections, the submittal requirements for preliminary and final conditional uses. The 'track changes' feature shows the deletions with red strike-thru and the additions in blue underlined text on the attached ordinance.

The recent conditional use (drive-in) request by McDonald's (which was withdrawn) has illuminated some concerns about the submittal requirements and standards for approval. As a result, staff has proposed some modifications to those standards for approval of drive-in business requests to better track the evaluations that occur with respect to levels of service and traffic impacts.



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA,  
AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE"  
ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES",  
SO AS TO REVISE APPLICATION SUBMITTAL  
REQUIREMENTS AND APPROVAL PROCEDURES FOR  
CONDITIONAL USES, REVISE THE STANDARDS FOR DRIVE-  
IN CONDITIONAL USES, PROVIDING FOR SEVERABILITY,  
CONFLICTS, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Winter Park has recommended approval of this Ordinance at its April 5, 2011 meeting; and

**WHEREAS**, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park's Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

**WHEREAS**, the City Commission hereby find that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

**NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (i) "Conditional Use Submittal Requirements" to read as follows:

**Sec. 58-90. Conditional uses.**

*(i) Conditional Use Submittal Requirements.*

(1) For conditional use approvals involving buildings over 10,000 square feet, ~~or~~ for three story buildings within the central business district geographic area as defined in this code, or two-story buildings in O-2 the applicant for approval of a conditional use shall submit to the city, plans and all supplemental materials required to accompany such plans, as outlined in this subsection. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.

(2) ~~All site and development plans~~ Applications for preliminary conditional use approval shall contain the following data and information:

~~Plan sheet format. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.~~

- a. General information including a legend, including the name of development; legal description; acreage; scale; north arrow; existing zoning and other special districts; preparation/revision date.
- b. Application, application fee, name, address and phone number of owner; owner's authorized agent; engineer; surveyor and others involved in application.
- c. Vicinity map;
- d. Existing conditions survey showing existing streets structures and topographic contours on the subject property and adjacent to and within fifty (50) feet of site and also including: name; location; right-of-way width; driveway approaches; medians and median cuts and existing on-site trees of nine inch caliper or greater.
- e. Proposed buildings and structures, individually identified by number, symbol or other appropriate system, including the following information: location; proposed use for each building or portion thereof; dimensions and height; gross floor area, in square feet by building, use and total; preliminary architectural elevations and proposed fences or walls.
- f. Required yards, setbacks, buffers and distances; indicate location and dimensions of all required yards, setbacks and buffers. Also indicate distance between buildings.
- g. Proposed on-site vehicular circulation system, and parking areas; include location, dimensions, and typical construction specifications of the driveways, approaches and curb cuts; vehicular access points, access ways, and common vehicular access points; off-street parking spaces and comparison of numbers provided with applicable code requirements; other vehicular use areas; sidewalks and other pedestrian use areas; and proposed dumpsters and other waste removal receptacles.
- f. Landscaping plan; ~~which may be~~ conceptual landscape plan which for preliminary approval but for final approval shall include the location and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas, and other landscaped areas and landscape. ~~Indicate provisions and method made for the continued maintenance of landscaped areas, open spaces, and recreational areas.~~
- g. Existing tree protection; identify existing trees from tree survey to be removed and/or protected and explain or illustrate method to preserve such trees or compensate for their removal. ~~both during and after construction.~~ Applicants ~~shall~~ should meet on-site with city staff to develop such tree protection and tree compensation plan.
- h. Storm Water retention and Drainage plan; in accordance with the requirements of the St. Johns River Water Management District and City Code for preliminary approval the submission shall detail the conceptual design approach and method of code compliance including preliminary storm water retention calculations to demonstrate adequate capacity. In cases where underground storm water exfiltration is planned, the



preliminary submission shall also include soil boring(s) and determination of water table to address the adequacy and design parameters of this approach. ~~and for final approvals show all existing and proposed grades, proposed guttering on buildings and storm water management details, including swales, berms, piping or other methods used to achieve compliance.~~

i. Street ~~signs~~ graphics and outdoor lighting; include the locations and sizes of all street signs and the method proposed for outdoor lighting. ~~intensity and nature of all proposed lighting (required only for final approval).~~

j. Flood plain; provide contours and elevation of 100-year floodplain and floodway, when applicable.

k. Transportation; a transportation analysis of the net trip generation for the proposed project and the analysis of whether the transportation level of service criteria of the city's comprehensive plan and concurrency regulations are affected.

l. For projects meeting the requirements for city-wide public notice, applicants for preliminary conditional use approval shall also submit at the time of application fully rendered 3-D ~~digital~~ architectural perspective images and elevations that show all sides of the proposed building(s), parking areas, parking structures and any other site improvement. Additionally, all adjacent buildings and site improvements within one hundred (100) feet of the proposed site must ~~should~~ be included within the ~~digital~~ 3-D images for review of the context with the immediately surrounding properties.

(9) Applications for final conditional use approval shall submit the following data and information:

(a) Project overview; for final approval, applicants shall resubmit the information provided for the preliminary approval as approved by the City Commission as revised with any changes or modifications required pursuant to the preliminary approval incorporating all conditions of approval or other modifications made as a result of the preliminary approval process.

(b) Landscape plan; for final approval, applicants shall indicate the locations and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas and other landscape areas and landscape. The plans shall include a plant list, size at planting, plant count and spacing. Plan shall indicate the method for continued maintenance of the landscaped areas such as by the property owner, tenant, HOA, etc. Additionally, a final irrigation plan must be included.

(c) Storm Water retention and Drainage plan; for final approval, in accordance with the requirements of the St. Johns River Water Management District and City Code, applicants shall submit the final storm water design and calculations including all existing and proposed grades, swales, berms, piping, guttering on buildings as necessary for building permit submittal. In addition, a storm water retention system maintenance plan shall be submitted in cases where underground exfiltration is planned.

(d) Development Agreement; for final approval the submission shall include a draft of the proposed development agreement prepared to accompany such application in accordance with Section 58-90 (f).

(e) Transportation; a transportation impact report in compliance with the requirements of the city's comprehensive plan and concurrency management regulations outlining the impacts and the methods of compliance with those regulations.

**SECTION 2.** That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (n) "Drive-in business" to read as follows:

n) *Drive-in business.*

(1) The city, as an existing urbanized area, does not lend itself to the establishment of new transportation corridors or to the expansion of existing streets. As a result, the city must strive to maintain the most effective and efficient movement of traffic on the existing road network. Since the drive-in components of any business can increase traffic congestion, create safety hazards on and off site and adversely impact adjacent neighborhoods or existing streets when they are improperly designed or located, the city has determined that in order to protect the health, safety, welfare and convenience of its citizens, drive-in components of any business shall be conditional uses to be disapproved, approved or approved with conditions. In addition to the site plan and building plan submittals previously outlined, all applications for drive-ins shall contain the following information if required by the city planning staff:

(2) Applicants shall submit appropriate traffic data and a transportation impact analysis, including but not limited to the current average daily traffic on adjacent streets and the current peak-hour(s) traffic on adjacent streets. This data shall also include estimated daily and a.m. and p.m. peak-hour traffic generation to and from the site utilizing current Institute of Transportation Engineers (ITE) data or data collected specifically for the site, as well as the documented distribution of trips to the various entrances and exits. The peak hour analysis shall be for the peak hour(s) of the business as well as the peak hours of the adjacent roadways. This data shall also include a detailed analysis of internal traffic flow including a queuing analysis completed with a city approved methodology, an analysis of the nature and adequacy of stacking areas on site for average and peak periods, and an analysis of the impact of vehicle queuing on site ingress and egress. Relevant accident history data near the proposed site and at sites with similar uses shall also be presented by the Applicant and considered by the City.

(3) Applicants shall submit projections of the anticipated number of customers and the location and patron characteristics of other similar businesses within ~~this~~ a specific area of the city to which the site is located.

(4) In order for the city to undertake its own analysis of these applications, all the above data shall be submitted no less than thirty (30) days prior to the planning and zoning commission meeting date. This shall allow sufficient time for the city to conduct, if necessary, or require the Applicant to collect new traffic counts, turning movement studies, capacity analysis and for the city to determine the adequacy of data submitted, as well as to question conclusions and findings by requesting supplementary information to back up previous submissions.

(5) It is the intention of the city to permit drive-in businesses only when the use~~they~~ imposes no substantial adverse traffic and safety impacts on adjacent streets, no substantial internal circulation and safety impact on the actual site and when the use is~~are~~ consistent with existing character of the area. It is not the intention to permit drive-ins for a parcel which is not suited by location or configuration for such use. Thus, no permit shall be issued unless the city commission shall first determine that:

- a. It is generally necessary or appropriate for the general welfare and public interest;
- b. That the proposed use is consistent with the character of the surrounding neighborhood and that the property values are reasonably safeguarded;
- c. That the size of the property is appropriate~~enough~~ to accommodate the use during peak periods of the use and during the peak periods of the adjacent streets without substantial adverse effect on adjacent streets and on-site;
- d. That no significant deterioration of traffic flow, facility capacity, excessive queuing and/or turning movements will result on adjacent streets from this use;
- e. That no undue traffic safety or traffic hazards will be created on site, at site ingress and egress, and on the adjacent roadway network.

**SECTION 3. Severability.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**SECTION 4. Conflicts.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 5. Effective Date.** This ordinance shall become effective immediately upon its final passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
*City Clerk*



**REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES", SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

Planning Director Jeffrey Briggs gave the staff report. He explained that the primary purpose of this ordinance is to update the Conditional Use section of the Zoning Code to better outline the submittal requirements for preliminary and final conditional use applications. He noted that his revision was suggested by the City Commission and discussed by the Planning Commission at the work session on January 26, 2011. Mr. Briggs added that the secondary purpose of this ordinance is to revise the standards for approval of conditional uses involving drive-in businesses given the experience gained in recent applications. He highlighted the major changes of the proposed ordinance. Staff recommended approval of this request. Mr. Briggs responded to Board member questions and concerns.

Mrs. Whiting inquired that the previous request did not seem to include all the submittals that this ordinance says should be provided. Mr. Briggs indicated that the code allows "judgment calls" by the staff which can waive submittal requirements to meet the needs of the particular circumstances. For example, in that case with just a second floor addition onto an existing building, there is no landscape area or changes to the storm water or parking arrangements.

No one wished to speak in favor of or in opposition to the request. Public Hearing closed.

Mr. Dick suggested two modifications related to requiring a maintenance plan for underground storm water exfiltration systems at the final review and to clarify the text related to development agreements. The Board members voiced their support of these modifications.

The Board members concurred that this revision should make it clearer to everyone what is required to be submitted now that we have a section for the preliminary approval and then a separate section for what is required for the final approval.

**Motion made by Mr. Krecicki, seconded by Mr. Dick to approve the request subject to the following conditions:**

- 1. That the final review application is to add the exfiltration maintenance plan**
- 2. That the development agreement shall be submitted, but not necessarily by the applicant.**

**Motion carried with a 5-0 vote.**

## **SITE PLAN REVIEWS**

SPR 1:11      Request of Mr. Trivison for approval of a one-story addition to his single-family, two-story home located at 199 Osceola Court on Lake Osceola, zoned R-1AAA.

Senior Planner gave the staff report. She noted that the applicant requested that review of the second story balcony be removed from consideration. It will need a variance to proceed. She explained that the applicant, Mr. Trivison, is requesting approval for a one-story addition to his two-story home located at 199 Osceola Court on Lake Osceola. The existing home is 4,858 square feet and the proposed addition will be adding 480 sq. ft. for a total of 5,338 (which was in error on the staff report). The new total square footage of 5,338 is within the permitted maximum of 33% FAR. She noted that this home meets the 50% required front yard landscape coverage. She reviewed square footage, impervious coverage, height, tree preservation, views from the lake, views of the adjacent neighbors, and storm water retention. Staff recommended approval of the request. Ms. Scowden responded to Board member questions and concerns.

Ken Trivison, 199 Osceola Court, and Bronson Enos, of Phil Kean Designs, were present to address Board member concerns and respond to any questions. No one else wished to speak concerning this request. Public Hearing closed.

**Motion made by Mr. Swisher, seconded by Mr. Krecicki to approve the request. Motion carried unanimously with a 5-0 vote.**

### **New Business:**

There were no items of new business.

### **Upcoming Meeting Schedule:**

Regular meeting – May 3, 2011 at 7:00 pm  
Work Session – May 25, 2011 at 12:00 noon

There was no further business. The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Lisa Smith  
Recording Secretary

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE REFUNDING OF THE OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2001, OF THE CITY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM AD VALOREM TAXES OF THE CITY LEVIED WITHOUT LIMITATION AS TO RATE OR AMOUNT ON ALL TAXABLE PROPERTY IN THE CITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK, FLORIDA:

**SECTION 1. AUTHORITY FOR THIS ORDINANCE.** This ordinance is enacted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes; Sections 2.11 and 2.14 of the Charter Laws of the City of Winter Park, Florida; and other applicable provisions of law.

**SECTION 2. FINDINGS.** It is hereby ascertained, determined and declared that:

A. On May 16, 2000, the qualified electors in the City of Winter Park, Florida (the "Issuer"), approved by bond referendum, the issuance by the Issuer of its not exceeding \$11,000,000 General Obligation Bonds, Series 2000 (the "Series 2000 GOB's"), to finance the cost of the acquisition and construction of certain municipal public safety improvements.

B. The Series 2000 GOB's were issued on November 15, 2001 pursuant to Ordinance 2374 in an aggregate principal amount of \$11,000,000 of which \$7,625,000 remains currently outstanding and were designated as the City of Winter Park General Obligation Bonds, Series 2001 (the "Series 2001 Bonds").

C. Based upon the advice of Public Financial Management, Inc., Orlando, Florida, the financial advisor to the Issuer (the "Financial Advisor"), it is necessary and desirable to refund all of the outstanding Series 2001 Bonds. Such refunding of the Series 2001 Bonds will result in a savings with respect to the debt service that would otherwise be attributable to the Series 2001 Bonds.

D. The Financial Advisor has represented that the general obligation bonds of the Issuer necessary to refund the Series 2001 Bonds (the "Refunding GOB'S") will bear a lower net average interest cost rate than the Series 2001 Bonds, and will otherwise be in compliance with the provisions of Section 132.35(2), Florida Statutes.

E. The Refunding GOB's will be secured by a pledge of the full faith, credit and unlimited ad valorem taxing power of the Issuer.



**SECTION 3. AUTHORIZATION OF BONDS.** The issuance by the Issuer of not exceeding \$8,000,000 Refunding GOB's, for the purpose and secured as specified above; to be dated, to bear interest at a rate or rates not exceeding the maximum legal rate per annum, to be payable, to mature, to be subject to redemption and to have such other characteristics as shall be provided by subsequent resolution of the Commission prior to their delivery; is hereby authorized. The Commission may adopt a specific bond resolution (including any resolutions supplemental to the bond resolution), supplemental to this ordinance, which sets forth the maturities of the Series 2001 Bonds to be refunded, the fiscal details of the Refunding GOB's and other covenants and provisions necessary for the marketing, sale and issuance of the Refunding GOB's.

**SECTION 4. REPEAL OF INCONSISTENT PROVISIONS.** All ordinances, resolutions or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its final passage and adoption.

ENACTED after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this \_\_\_\_ day of April, 2011.

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Mayor

ATTEST:

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City Clerk



# city commission agenda item

item type	Public Hearing	meeting date	May 9, 2011
prepared by	Wes Hamil	approved by	<input checked="" type="checkbox"/> City Manager
department	Finance		<input type="checkbox"/> City Attorney
division	n/a		<input type="checkbox"/> N/A
board approval	n/a	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote

## subject

Resolution providing for the issuance of up to \$8,000,000 in bonds to refund the outstanding General Obligation Bonds, Series 2001.

## motion | recommendation

Approve resolution providing for the issuance of up to \$8,000,000 in bonds to refund the outstanding General Obligation Bonds, Series 2001.

## Background

The City has an opportunity to refund the outstanding General Obligation Bonds, Series 2001 for a net present value savings of \$587,200 and 8.3% of the refunded bonds. Average annual debt service will be reduced from \$907,000 to \$852,500, for average annual savings of \$54,500. These numbers are based on projections prepared by the City's Financial Advisor, (PFM), on March 24, 2011.

Based on current year taxable values, this refunding would allow the City to reduce its debt service millage by 0.015 mills. This would save a property owner with \$300,000 in taxable value \$5 on an annual basis.

The 2011 bonds will be sold on a competitive basis via the Parity Bid Submission System.

In addition to the bond resolution this agenda package also includes the:

Preliminary Official Statement  
Escrow Deposit Agreement  
Bond Registrar and Paying Agent Agreement  
Continuing Disclosure Certificate  
Notice of Redemption  
2011 GO Summary Notice of Sale  
2011 GO Notice of Sale Draft

## **alternatives | other considerations**

Other alternatives include waiting longer to refund the bonds. However, there is no guarantee the market will improve over current rates. Our debt management policy calls for minimum net present value savings of 5% for an advance refunding. Refunding these bonds in the current market should yield net present value savings in excess of 8%. The bonds are callable at par on July 1, 2012.

## **fiscal impact**

The refunding will not impact the City's budget but will enable the City to reduce its debt service millage by a small amount.

## **strategic objective**

Achieve financial security through good government practices.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$8,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011; TO REFUND ALL OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2001; PROVIDING FOR THE PAYMENT OF SAID BONDS FROM AD VALOREM TAXATION WITHOUT LIMIT ON ALL TAXABLE PROPERTY IN THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING A COMPETITIVE BID AND APPROVING THE FORM OF THE OFFICIAL NOTICE OF SALE AND SUMMARY NOTICE OF SALE PERTAINING TO SUCH BONDS; MAKING CERTAIN PROVISIONS AND DELEGATING CERTAIN RESPONSIBILITIES WITH RESPECT TO THE NOTICE, BIDDING AND SALE OF THE BONDS; APPROVING THE FORM OF THE PRELIMINARY OFFICIAL STATEMENT AND CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING THE EXECUTION AND DELIVERY OF A FINAL OFFICIAL STATEMENT AND CONTINUING DISCLOSURE CERTIFICATE; APPOINTING A PAYING AGENT AND REGISTRAR AND ESCROW AGENT; APPROVING THE FORM OF A PAYING AGENT AND REGISTRAR AGREEMENT AND AN ESCROW DEPOSIT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, Sections 132.33 through 132.47, Florida Statutes, Article VII of the Florida Constitution, the municipal charter of the City and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** The following terms shall have the following meanings herein, unless the text expressly requires otherwise. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Acquired Obligations" except as provided by Supplemental Instrument authorizing the issuance of a Series of Bonds as provided herein, means and includes any of the following securities, if and to the extent the same are at the time legal for investment of funds of the City under the laws of the state of Florida:

- (1) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States

of America, including obligations of any Federal agency or corporation which has been or may hereafter be created pursuant to an act of Congress as an agency or instrumentality of the United States of America to the extent unconditionally guaranteed by the United States of America or any other evidences of an ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the interest thereon) of the character described in this clause (i); and

(2) any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (a) which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given to the trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (b) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character described in clause (i) hereof which have been deposited in such fund along with any cash on deposit in such fund is sufficient to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (ii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate.

"Bonds" shall mean the General Obligation Refunding Bonds, Series 2011, which obligation is authorized hereunder, secured by ad valorem taxes and entered into to refund the Refunded Bonds.

"Bond Year" means the annual period ending on a Bond principal maturity date.

"City" means the City of Winter Park, Florida.

"City Manager" means the City Manager or the Assistant City Manager of the City.

"Commission" means the City Commission of the City of Winter Park, Florida.

"Debt Service Requirement" means the amounts required in each Bond Year to pay the principal of and interest on the Bonds as the same become due and payable less any amount set aside in the Sinking Fund for such purpose.

"Escrow Agent" means The Bank of New York Mellon Trust Company, N.A. as the bank or trust company which shall execute the Escrow Agreement with the City.

"Escrow Agreement" means that certain Escrow Deposit Agreement by and between the City and the Escrow Agent for the purpose of providing for the payment of the Refunded Bonds, which agreement shall be in the form attached hereto as Exhibit B.

"Financial Advisor" means Public Financial Management, Inc., Orlando, Florida.

"Fiscal Year" shall mean the period commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive 12-month period as may hereafter be designated as the fiscal year of the City.

"Holder of Bonds" or "Bondholders" or any similar term means any person who shall be the registered owner of any Outstanding Bond.

"Investment Securities" means those obligations in which surplus City funds may be invested under the City's investment policy and the laws of the State of Florida, including, without limitation, Section 218.415, Florida Statutes.

"Mayor" means the Mayor of the City, or, in the Mayor's absence, the Vice Mayor.

"Original Purchaser" means the winning bidder on the sale of the Bonds pursuant to the conditions set forth in Section 5 hereof.

"Outstanding" or "Bonds Outstanding" means all Bonds that have been issued pursuant to this Resolution except:

- (1) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;

- (2) Bonds for the payment or redemption of which cash funds or Acquired Obligations or any combination thereof shall have been theretofore irrevocably set aside in a special account with a Paying Agent or other fiduciary (whether upon or prior to the maturity or redemption date of any such Bonds) in an amount which, together with earnings on such Acquired Obligations, will be sufficient to pay the principal of and interest on such Bonds at maturity or upon their earlier redemption; provided that, if such Bonds are to be redeemed before the maturity thereof, notice of such redemption shall have been given according to the requirements of this Resolution or irrevocable instructions directing the timely publication of such notice and directing the payment of the principal of and interest on all Bonds at such redemption dates shall have been given to such Paying Agent or other fiduciary; and

- (3) Bonds which are deemed paid pursuant to this Resolution or in lieu of which other Bonds have been issued under Section 9 hereof.

"Parity System" shall mean the Parity electronic competitive bidding system.

"Paying Agent" or "Registrar" means the Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida.

"Refunded Bonds" shall mean the City of Winter Park, Florida General Obligation Bonds, Series 2001.

"Sinking Fund" means the Sinking Fund created pursuant to Section 14 of this Resolution.

"Term Bonds" means the bonds of a series all of which shall be stated to mature on one date and which shall be subject to retirement by operation of the Bond Amortization Account, as described in Section 14 hereof.

**SECTION 3. FINDINGS.** It is hereby found, ascertained and determined that:

A. Pursuant to Ordinance No. 2342 enacted by the City Commission on March 28, 2000 (the "Initial Ordinance") enacted by the City Commission on September 12, 2000, the City Commission found it necessary and desirable to acquire and construct a new public safety complex housing police facilities, a fire station and fire administration facilities, including existing fire station improvements, communications and emergency operations center facilities and improvements and conversion of existing public safety facilities to general government use after relocation of such public safety facilities (the "Project").

B. The City Commission found that it is a municipal and public purpose to pay the costs of the Project through the issuance of bonds to serve the health, safety and welfare of all the citizens and residents of the City.

C. Pursuant to the Initial Ordinance, a referendum election was ordered for the purpose of authorizing the issuance of not to exceed \$11,000,000 City of Winter Park, Florida General Obligation Bonds, Series 2001 in order to finance the costs of the Project.

D. Notice of such referendum election was duly published in the Orlando Sentinel a newspaper of general circulation in Orange County, Florida, in accordance with all statutory requirements.

E. An election was held on May 16, 2000 to determine if the electors of the City approved the issuance of the Refunded Bonds for the purpose of financing the Project, payable solely from ad valorem taxes on all the taxable property within the City. The election was duly held and conducted in all respects according to law, and a majority of the electors casting a ballot voted in favor of the issuance of such bonds for such purpose.

F. Pursuant to Resolution No. 1730 adopted by the City of September 12, 2000 the City Commission authorized the issuance of not to exceed \$14,500,000 of its General Obligation Bonds to finance the cost of the Project and refund the City's outstanding General Obligation Bonds, Series 1993.

G. Article VII, Section 12 of the Florida Constitution provides that municipalities may issue bonds payable from ad valorem taxation without approval by a vote of the electors to refund outstanding bonds and interest and redemption premiums thereon if such refunding bonds are issued at a lower net average interest cost rate than that which is calculated respecting the refunded bonds.

H. Section 132.33 through 132.47, Florida Statutes, as amended, set forth certain requirements which must be met prior to the issuance of the Series 2011 Bonds.

I. The City deems it a paramount public purpose and deems it necessary, beneficial and in its best interest to provide for the refunding of the Refunded Bonds. The refunding program herein described will be advantageous to the City by effecting an overall reduction in debt service applicable to bonded indebtedness issued to finance the Project.

J. Ad valorem taxes levied by the City should be sufficient to pay all principal of and interest and redemption premium, if any, on the Series 2011 Bonds to be issued hereunder, as the same become due and payable, and to make all required deposits or payments required by this Resolution.

K. Because the City desires to sell the Bonds at the most advantageous time, the City hereby delegates to the Mayor and the City Manager the authority to award the sale of the Bonds to the lowest bidders in accordance with the Official Notice of Sale based upon the parameters set forth herein.

L. It is hereby ascertained, determined and declared that it is in the best interest of the City to provide for the sale by competitive bid of the Bonds, maturing and bearing interest and having such other terms as set forth herein and in the Summary Notice of Sale and Official Notice of Sale attached hereto as Exhibit A, and the bid proposal of the lowest bidder or bidders selected on a subsequent date pursuant to the terms hereof.

**SECTION 4. THIS RESOLUTION TO CONSTITUTE CONTRACT.** In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the City and such Holders. The covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the legal Holders of any and all of the Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided therein and herein.

**SECTION 5. AUTHORIZATION OF BONDS AND REFUNDING; DESCRIPTION OF BONDS; DELEGATION OF AUTHORITY TO APPROVE TERMS OF BONDS AND AWARD THE SALE OF THE BONDS AT COMPETITIVE SALE.** Subject and pursuant to the provisions hereof, obligations of the City, to be known as "General Obligation Refunding Bonds, Series 2011," are authorized to be issued in the aggregate initial principal amount of not exceeding \$8,000,000. The Bonds shall be issued as registered bonds and may be issued in one



or more Series and, in such event, the designation of the Bonds shall reflect the Series to which they are a part. The Bonds are issued for the purpose of refunding the Refunded Bonds and paying the costs of issuance related thereto. The principal of and redemption premium, if any, on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts upon presentation of the Bonds at the office of the Paying Agent. Interest payable on any Bond on any interest payment date will be paid by check or draft of the Paying Agent to the Holder in whose name such Bond shall be registered at the close of business on the date which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding the month in which such interest payment is due. In lieu of payment by check or draft, and at the request and expense of such Holder, payment may be made by bank wire transfer for the account of such Holder.

Subject to the conditions set forth in the following paragraph, the City hereby delegates to the Mayor and the City Manager the authority to determine the terms of the Bonds, including (i) the dated date, (ii) the principal amount and whether such Bonds are issued as serial or term bonds, (iii) the maturity dates and amounts, (iv) the interest rates, prices, yields and interest payment dates, (v) the amortization installments and other mandatory redemption features, if any, (vi) the sale date and the delivery date, (vii) the application of the proceeds of the Bonds and (viii) all other details of the Bonds, and to take such further action as shall be required for carrying out the purposes of this Resolution.

The City hereby approves the form of the Summary Notice of Sale and the Official Notice of Sale attached hereto as Exhibit A, each made a part hereof as if set forth herein in their entirety, subject to such modifications, amendments, changes and filling of blanks therein as shall be approved by the Mayor and the City Manager. The City hereby authorizes the newspaper publication of the Summary Notice of Sale pursuant to the requirements of law, and the distribution of the Official Notice of Sale based on the advice of the Financial Advisor.

The award of the sale of the Bonds by the Mayor and the City Manager to underwriters by competitive sale is subject to satisfaction of the following criteria: (i) all applicable disclosure information required by Section 218.385, Florida Statutes, is provided by the purchasers, (ii) the aggregate principal amount of the Bonds does not exceed \$8,000,000, (iii) the final maturity of the Bonds is not later than July 1, 2021, and (iv) a net present value debt service savings of not less than 3.00%.

All actions of the Mayor and the City Manager taken pursuant to the authority delegated pursuant to this Section shall be evidenced by execution of acceptance of a winning bid which shall constitute complete evidence of the actions of the Mayor and the City Manager and shall constitute the action of the City.

**SECTION 6. EXECUTION AND AUTHENTICATION OF BONDS.** The Bonds shall be executed in the name of the City by its Mayor, and the corporate seal of the City or a facsimile thereof shall be affixed thereto or reproduced thereon and attested by its City Clerk.

The authorized signatures for the Mayor and City Clerk shall be either manual or in facsimile. The Certificate of Authentication of the Bond Registrar shall appear on the Bonds, and no Bonds shall be valid or obligatory for any purpose or be entitled to any security or benefit under this resolution unless such certificate shall have been duly executed on such Bonds. The authorized signature for the Bond Registrar shall be either manual or in facsimile; provided, however, that at least one of the signatures, including that of the authorized signature for the Bond Registrar, appearing on the Bonds, shall at all times be a manual signature. In case any one or more of the officers of who shall have signed and or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed shall have been actually sold and delivered, such bonds may nevertheless be sold and delivered as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

**SECTION 7. EXCHANGE OF BONDS.** Any Bonds, upon surrender thereof at the designated corporate trust office of the Registrar, together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar, may, at the option of the Bondholder, be exchanged for an aggregate principal amount of Bonds equal to the principal amount of the Bond or Bonds so surrendered, subject to the provisions of Section 7 hereof.

The Registrar shall make provision for the exchange of Bonds at the designated corporate trust office of the Registrar.

**SECTION 8. NEGOTIABILITY, REGISTRATION AND TRANSFER OF BONDS.** The Registrar shall keep books for the registration of and for the registration of transfers of Bonds as provided in this Resolution. The transfer of any Bonds may be registered only upon such books and only upon surrender thereof to the Registrar together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer the City shall execute and the Registrar shall authenticate and deliver in exchange for each Bond, a new Bond or Bonds registered in the name of the transferee, and in an aggregate principal amount equal to the principal amount of such Bond or Bonds so surrendered.

In all cases in which Bonds shall be exchanged, the City shall execute and the Registrar shall authenticate and deliver, at the earliest practicable time, a new Bond or Bonds of the same type and for a like aggregate principal amount and maturity. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The City or the Registrar may make a charge for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any Bondholder for the privilege of exchanging or registering the transfer of Bonds under the provisions of this Resolution. Neither the City nor the Registrar shall be required to make any

such exchange or registration of transfer of Bonds during the fifteen (15) days immediately preceding (1) any interest payment date or (2) in the case of Bonds called for redemption, the redemption date designated for such Bonds.

Notwithstanding the provisions set forth above, the Bonds may be initially issued in the form of a separate single certificated fully registered Bond for each of the maturities of the Bonds. Upon initial issuance, the ownership of each such Bond may be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). Except as provided in this Section 8, and for as long as the City uses the book entry-only system of registration, all of the Outstanding Bonds shall be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC. As long as the Bonds shall be registered in the name of Cede & Co., all payments of principal on the Bonds shall be made by the Paying Agent by check or draft or by wire transfer to Cede & Co., as Holder of the Bonds.

With respect to Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the City, the Registrar and the Paying Agent shall have no responsibility or obligation to any participant in the DTC book-entry program (a "Participant") or to any indirect participant. Without limiting the immediately preceding sentence, the City, the Registrar and the Paying Agent shall have no responsibility or obligation with respect to (A) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest on the Bonds, (B) the delivery to any Participant or any other Person other than a Bondholder, as shown in the registration books kept by the Registrar, of any notice with respect to the Bonds, including any notice of redemption, or (C) the payment to any Participant or any other Person, other than a Bondholder, as shown in the registration books kept by the Registrar, of any amount with respect to principal of, redemption premium, if any, or interest on the Bonds. The City, the Registrar and the Paying Agent may treat and consider the Person in whose name each Bond is registered in the registration books kept by the Registrar as the Holder and absolute owner of such Bond for the purpose of payment of principal, redemption premium, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, redemption premium, if any, and interest on the Bonds only to or upon the order of the respective Holders, as shown in the registration books kept by the Registrar, or their respective attorneys duly authorized in writing, as provided herein and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal, redemption premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than a Holder, as shown in the registration books kept by the Registrar, shall receive a certificated Bond evidencing the obligation of the City to make payments of principal, redemption premium, if any, and interest pursuant to the provisions hereof. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to transfers during the fifteen (15) days next preceding any interest payment date or mailing of notice of redemption, the words "Cede & Co." in this

Resolution shall refer to such new nominee of DTC; and upon receipt of such notice, the City shall promptly deliver a copy of the same to the Registrar and the Paying Agent.

Upon (A) receipt by the City of written notice from DTC (i) to the effect that a continuation of the requirement that all of the Outstanding Bonds be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, is not in the best interest of the beneficial owners of the Bonds or (ii) to the effect that DTC is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of DTC hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, or (B) determination by the City that such book-entry only system is burdensome to the City, the Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names Holders shall designate, in accordance with the provisions hereof. In such event, the City shall issue and the Registrar shall authenticate, transfer and exchange Bonds of like principal amount and maturity, in denominations of \$5,000 or any integral multiple thereof to the Holders thereof. The foregoing notwithstanding, until such time as participation in the book-entry only system is discontinued, the provisions set forth in the Letter of Representations executed by the City and the Registrar and delivered to DTC in order to induce DTC to act as securities depository for the Bonds shall apply to the payment of principal of and interest on the Bonds.

**SECTION 9. OWNERSHIP OF BONDS.** The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond, and the interest on any such Bonds, shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond including the premium, if any, and interest thereon to the extent of the sum or sums so paid.

**SECTION 10. BONDS MUTILATED, DESTROYED, STOLEN OR LOST.** In case any Bond shall become mutilated, or be destroyed, stolen or lost, the City may in its discretion cause to be executed, and the Registrar shall authenticate and deliver, a new Bond of like date and tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the City and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City and the Registrar may prescribe and paying such expenses as the City and the Registrar may incur. All Bonds so surrendered shall be canceled by the City. If any of the Bonds shall have matured or are about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City whether or not the lost, stolen or

destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien on and source and security for payment from the funds, as hereinafter pledged, to the same extent as all other Bonds issued hereunder.

**SECTION 11. NO PRIOR REDEMPTION.** The Bonds are not subject to optional redemption prior to their stated dates of maturity.

**SECTION 12. FORM OF BONDS.** The text of the Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and approved by the Mayor (which necessity or desirability and approval shall be presumed by such officer's execution of the Bonds and the City's delivery of the Bonds to the purchasers thereof), such variations to include any changes necessary to evidence a borrowing from a pooled loan program or other form of indebtedness:

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(FORM OF BOND)

No.

\$\_\_\_\_\_

UNITED STATES OF AMERICA  
THE CITY OF WINTER PARK, FLORIDA  
GENERAL OBLIGATION REFUNDING BOND, SERIES 2011

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	_____, ____	_____, 1, 2011	_____

Registered Holder: Cede & Co.

Principal Amount:

The City of Winter Park, Florida, (the "City"), for value received, hereby promises to pay to the Registered Holder identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, the Principal Amount identified above and to pay interest on such Principal Amount from the Date of Original Issue identified above or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum identified above on January 1<sup>st</sup> and July 1<sup>st</sup> of each year commencing July 1, 2011 until such Principal Amount shall have been paid.

Such Principal Amount and interest and the premium, if any, on this Bond are payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. Such Principal Amount and the premium, if any, on this Bond, are payable at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A., as Paying Agent (the "Paying Agent"). Interest payable on any Bond on any interest payment date will be paid by check or draft of the Paying Agent to the Holder in whose name such Bond shall be registered at the close of business on the date which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding the month in which such interest payment is due. In lieu of payment by check or draft, and at the request and expense of such Holder, payment may be made by bank wire transfer for the account of such Holder.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds") of like date, tenor and effect, except as to number, maturity and interest rate issued to refund the City's outstanding General Obligation Bonds, Series 2001, and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Florida Statutes, Sections 132.33 through 132.47, Florida Statutes, Article VII, Section 12 of the Florida Constitution, the municipal charter of the City, and Ordinance No. \_\_, duly enacted by the Commission on May 9, 2011, and Resolution No. \_\_\_\_ adopted by the Commission on May 9, 2011, as amended and supplemented from time to time (the "Resolution") and is subject to all the terms and conditions of such Resolution.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of the Bonds of this issue does not violate any constitutional, statutory, or charter limitation or provision, and that provision has been made for the collection of a direct annual tax, without limitation as to rate or amount, on all property in the City taxable for such purpose sufficient to pay and discharge the principal and interest on the Bonds, for the payment of which the full faith, credit and taxing power of the City are irrevocably pledged.

The Bonds shall not be subject to optional redemption prior to their stated dates of maturity.

This Bond may be transferred only upon the books of the City kept by the Registrar upon surrender hereof at the principal office of the Bond Registrar with an assignment duly executed by the Bondholder or his duly authorized attorney, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Resolution, and upon surrender and cancellation of this Bond. Upon any such transfer, there shall be executed in the name of the transferee, and the Registrar shall deliver, a new fully registered bond or bonds in authorized denominations and in the same aggregate principal amount, series, maturity and interest rate as this Bond.

In like manner, subject to such conditions and upon the payment of such charges, if any, the Holder of this Bond may surrender the same (together with a written authorization for exchange satisfactory to the Registrar duly executed by the Holder or his duly authorized attorney) in exchange for an equal aggregate principal amount of fully registered bonds in authorized denominations of the same series, maturity and interest rate as this Bond.

This Bond is and has all the qualities and incidents of a negotiable instrument under the laws of the State of Florida.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until it shall have been authenticated by the execution by the Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Winter Park, Florida, has issued this Bond and has caused the same to be executed by its Mayor, and its corporate seal to be impressed, imprinted or otherwise reproduced hereon and attested by its City Clerk, all as of \_\_\_\_\_ 1, \_\_\_\_.

THE CITY OF WINTER PARK, FLORIDA

(SEAL)

\_\_\_\_\_  
Mayor

ATTESTED:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION OF REGISTRAR

This Bond is one of the Bonds of the issue described in the Resolution.

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Bond Registrar

By \_\_\_\_\_  
Authorized Signature

Date of Authentication:



The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

JT TEN - as joint tenants with right of  
Survivorship and not as tenants in common

TEN ENT - as tenants by the  
entireties

UNIF GIF/TRANS MIN ACT - \_\_\_\_\_  
(Cust.)

Custodian for \_\_\_\_\_  
(Minor)

Under Uniform Gifts/Transfers to Minor  
Minors Act of \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in list above.

#### ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please insert Social Security or other identifying number of assignee) \_\_\_\_\_ the attached Bond of the City of Winter Park, Florida, and does hereby constitute and appoint \_\_\_\_\_, attorney, to transfer the said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date:

Signature Guaranteed by:

[member firm of the New York Stock  
Exchange or a commercial bank or a trust  
company.]

By: \_\_\_\_\_

Title: \_\_\_\_\_

NOTICE: No transfer will be registered and no new Bonds will be issued in the name of the Transferee, unless the signature to this assignment corresponds the name as it appears upon the face of the within Bond in particular, without alteration or enlargement or any change whatever and the Social Security or Federal Employer Identification Number of the Transferee is supplied.

[Remainder of page intentionally left blank]

**SECTION 13. APPLICATION OF FUNDS.** The proceeds, including accrued interest and premium, if any, received from the sale of any or all of the Bonds, together with any other monies lawfully available therefor, shall be applied by the City simultaneously with the delivery of such Bonds to the Original Purchaser thereof, as follows:

(i) to the extent not reimbursed therefore by the Original Purchaser, an amount which shall pay the costs and expenses associated with the issuance of the Bonds, and

(ii) a sum specified in the Escrow Agreement that shall be sufficient, taking into account other legally available moneys of the City, if any, to pay the principal of, interest on and redemption premium, if any, on the Refunded Bonds, shall be deposited into the escrow account created under the Escrow Deposit Agreement (the "Escrow Account").

Simultaneously with the delivery of the Bonds, the City is authorized to transfer or cause to be transferred to the Escrow Account, moneys, if any, accumulated in any sinking and/or reserve funds which were intended to be used to pay debt service on the Refunded Bonds.

The proceeds of the sale of the Bonds shall be and constitute trust funds for the purposes hereinafter provided and there is hereby created a lien upon such monies, until so applied, in favor of the Holders of said Bonds.

**SECTION 14. SINKING FUND; LEVY OF AD VALOREM TAX.** There is hereby created a Sinking Fund (including a Bond Amortization Account therein) to be held by a depository for and administered by the City. Money on deposit in the Sinking Fund (excluding the Bond Amortization Account) shall be used solely for the purpose of paying the principal, redemption premium, if applicable, and interest on the Bonds as they become due. Money on deposit in the Bond Amortization Account shall be used for the payment of Amortization Installments on Term Bonds, and if more than one stated maturity of Term Bonds of a series is outstanding, allocation of such money shall be made in a separate special subaccount for each stated maturity of Term Bonds of a series. Pending its use money on deposit in the Sinking Fund may be invested in Authorized Investments, and the income therefrom shall be retained in the Sinking Fund. At least one business day prior to an interest or Amortization Installment payment date, or principal maturity date for the Bonds, the City shall pay or cause to be paid to the paying agent for the Bonds, an amount sufficient to pay the interest, Amortization Installment, principal and redemption premium, if applicable, due on the Bonds on such date.

Money held in the Bond Amortization Account shall be applied to the redemption or open market purchase (at not exceeding the price of par and accrued interest) of Term Bonds in accordance with the mandatory redemption provision and/or the schedule of Amortization Installments for such Term Bonds. Amortization Installments for any Term Bonds shall be reduced on a reasonably proportionate basis to the extent that such Term Bonds are purchased in the open market, or shall be adjusted as otherwise approved by the City Manager. The City shall pay from the Sinking Fund all expenses in connection with such purpose or redemption.

In each year while any of such Bonds are outstanding, there shall be levied and collected by the City, a tax without limitation as to rate or amount on all taxable property within the area of the City, sufficient in amount to pay the principal, Amortization Installments, redemption premiums, if applicable, and interest on such Bonds, as the same shall become due, after deducting therefrom any other funds which may be available for such principal, Amortization Installments, applicable redemption premiums and interest payments and which shall actually be so applied. The proceeds of such tax shall be deposited, as received, into the Sinking Fund and Bond Amortization Account, as applicable, for such purposes, and the Holders of the Bonds shall have a lien upon the proceeds of such tax until so applied for payment of the principal (including any Amortization Installments), redemption premiums, if applicable, and interest on the Bonds.

**SECTION 15. GENERAL OBLIGATION OF THE CITY.** The full faith, credit and resources of the City shall be and are hereby pledged for the full and prompt payments of the principal, interest, charges of the Paying Agent and redemption premiums, if any, and the direct annual tax hereinbefore provided to pay said Bonds shall be levied upon all taxable property, except property of such nature as may be exempt from taxation under the provisions of the Constitution and laws of the state of Florida which are in force and effect at the time of the issuance of said Bonds. Provision shall be included and made in the annual budget and tax levy for the levy of the taxes hereinbefore provided. Whenever the City shall, in any Bond Year, have irrevocably deposited in the Sinking Fund any monies derived from sources other than the aforementioned property tax, said property tax may be correspondingly diminished; but any such diminution must leave available an amount of such taxes, after allowance for anticipated delinquencies in collection, fully sufficient, with such monies so deposited from other sources, to assure the prompt payment of principal, interest, charges of the Paying Agent and redemption premiums, if any, falling due prior to the time that the proceeds of the next annual property tax levy will be available.

**SECTION 16. EVENTS OF DEFAULT; REMEDIES.**

A. Except as provided below, if any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

- (i) Default in the due and punctual payment of interest on the Bonds;
- (ii) Default in the due and punctual payment of the principal of and premium, if any, on any Bond, at the stated maturity thereof, or upon proceedings for redemption thereof;
- (iii) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the City contained in this Resolution or in the Bonds and the continuance thereof for a period of thirty (30) days after notice thereof to the City by the Paying Agent and Registrar or the Holders of not

less than twenty-five percent (25%) of the aggregate principal amount of Bonds then outstanding;

- (iv) Any act of bankruptcy or the rearrangement, adjustment or readjustment of the obligations of the City under the provisions of any bankruptcy or moratorium laws or similar laws relating to or affecting creditors' rights;

B. Any holder of Bonds issued under the provisions hereof or any trustee acting for such Bondholders may, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights including the appointment of a receiver, existing under State or federal law, or granted and contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution or by any applicable statutes to be performed by the City, the Commission or by any agency, officer, member or employee thereof.

#### **SECTION 17. MODIFICATION OR AMENDMENT.**

This Resolution may be amended without the consent of the Bondholders of the respective Series of Bonds to cure any ambiguity or formal defect or omission herein, add to the security for the Bonds or provide for the issuance of coupon Bonds if and to the extent permitted by law. No material adverse modification or amendment of this Resolution or of any resolution or ordinance amendatory hereof or supplemented hereto may be made without the consent in writing of the Holders of a majority of the Bonds of the affected Series then Outstanding.

**SECTION 18. EXECUTION OF ESCROW AGREEMENT; REDEMPTION OF REFUNDED BONDS.** The City hereby approves the Escrow Agreement as set forth in the form attached hereto as Exhibit E. The Escrow Agreement shall be executed in the name of the City by the Mayor, such signature to be attested to by the City Clerk, the official seal of the City to be imprinted thereon, and shall be approved as to form by the City Attorney, with such additional changes and insertions therein as are subsequently approved, and such execution and delivery shall be conclusive evidence of the approval thereof by such officers.

Subject to the execution and delivery of the Bonds to refund the Refunded Bonds, there is hereby authorized a deposit of proceeds of the Bonds which, together with other legally available funds of the City and investment earnings thereon, if any, is equal to the principal of and interest and redemption premiums, if any, on the Refunded Bonds when due in accordance with the schedules to be attached to the Escrow Agreement to pay principal and interest on the Refunded Bonds and to pay applicable call premiums and any costs with respect thereto.

Subject to the execution and delivery of the Bonds for the purpose of refunding the Refunded Bonds, the City hereby irrevocably calls the callable Refunded Bonds for early redemption on July 11, 2011, or such other date as determined by the Mayor in the Escrow Agreement, at a redemption price of 100% of the principal amount of such callable Refunded Bonds to be redeemed, plus accrued interest thereon to the redemption date. Not before

issuance of the Bonds and not less than thirty (30) days and not more than sixty (60) days prior to such redemption date, the City hereby directs The Bank of New York Mellon Trust Company, N.A., in its capacity as Paying Agent and Bond Registrar for the Refunded Bonds (the "2001 Paying Agent"), to mail a notice of the redemption of the Refunded Bonds to each holder thereof in accordance with the requirements of Section 12 of the Initial Resolution in the form to be prepared by Bond Counsel. Furthermore, upon issuance of the Bonds for the purposes of refunding the Refunded Bonds, the City hereby directs the 2001 Paying Agent to mail a notice of defeasance to each holder of the Refunded Bonds in the form to be prepared by Bond Counsel.

**SECTION 19. APPROVAL OF PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT.** The City hereby approves the form and content of the Preliminary Official Statement for the Bonds which is attached hereto as Exhibit C. The Mayor and the City Manager are hereby authorized to execute on behalf of the City, the final Official Statement relating to the Bonds with such changes, insertions, omissions and filling of blanks in the Preliminary Official Statement as may be approved by the Mayor and the City Manager, execution thereof to be conclusive evidence of such approval. Such Preliminary Official Statement and final Official Statement are hereby authorized to be used and distributed in connection with the marketing and sale of the Bonds. The City Manager is authorized to deem final the Preliminary Official Statement for purposes of Rule 15c2-12 (the "Rule") of the Securities and Exchange Commission.

**SECTION 20. CONTINUING DISCLOSURE.** The City hereby covenants and agrees that, in order to assist the Original Purchaser in complying with the continuing disclosure requirements of the Rule with respect to the Bonds, it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate to be executed by the City prior to the time the City delivers the Bonds to the Original Purchaser, as may be amended from time to time in accordance with the terms thereof. The form of the Continuing Disclosure Certificate, attached hereto as Exhibit D is hereby approved and ratified, all of the provisions of which, when executed and delivered by the City as authorized herein shall be deemed to be a part of this instrument as fully and to the same extent as if incorporated verbatim herein. Notwithstanding any other provision of the Resolution, failure of the City to comply with such Continuing Disclosure Certificate shall not be considered an Event of Default under the Resolution. However, the Continuing Disclosure Certificate shall be enforceable by the Bondholders in the event that the City fails to cure a breach thereunder within a reasonable time after written notice from a Bondholder to the City that a breach exists. Any rights of the Bondholders to enforce the provisions of this covenant shall be on behalf of all Bondholders and shall be limited to a right to obtain specific performance of the City's obligations thereunder.

The Continuing Disclosure Certificate shall be executed in the name of the City by the Mayor and attested by the City Clerk, the official seal of the City to be imprinted thereon, and shall be approved as to form and correctness by the City Attorney, with such additional changes and insertions therein as are subsequently approved, and such execution and delivery shall be conclusive evidence of the approval thereof by such officers

**SECTION 21. APPOINTMENT OF PAYING AGENT AND REGISTRAR.** The Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida is hereby appointed Paying Agent and Registrar with respect to the Bonds. The Paying Agent and Registrar Agreement shall be executed in the name of the City by the Mayor and attested by the City Clerk, the official seal of the City to be imprinted thereon, and shall be approved as to form and correctness by the City Attorney, with such additional changes and insertions therein as are subsequently approved, and such execution and delivery shall be conclusive evidence of the approval thereof by such officers in substantially the form attached hereto as Exhibit E.

**SECTION 22. INVESTMENTS.** Monies on deposit in the Sinking Fund shall be continuously secured in the manner by which the deposit of public funds are authorized to be secured by the laws of the State. Monies on deposit in the Sinking Fund may be invested and reinvested in Investment Securities maturing not later than the date on which the monies therein will be needed for the purposes of such fund or account. All investments shall be valued at least annually at the current market value. Any and all income received by the City from the investment of monies in the Sinking Fund shall be retained in such respective Fund. Nothing contained in this Resolution shall prevent any Investment Securities acquired as investments of or security for funds held under this Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

**SECTION 23. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof or of the Bonds.

**SECTION 24. HOLDERS NOT AFFECTED BY USE OF PROCEEDS.** The Holders of the Bonds shall have no responsibility for the use of the proceeds thereof, and the use of such proceeds by the City shall in no way affect the rights of such Holders. The City shall be irrevocably obligated to continue to levy and collect the ad valorem taxes as provided herein and to pay the principal of and interest on the Bonds and other payments provided for herein from the ad valorem taxes notwithstanding any failure of the City to use and apply such proceeds in the manner provided herein.

**SECTION 25. DEFEASANCE.** If (A) the City shall pay or cause to be paid to the Holders of the Bonds then Outstanding the principal of and the interest to become due thereon at the times and in the manner stipulated therein and herein, (B) all fees, charges and expenses of the Paying Agent(s) shall have been paid, and (C) the City shall keep, perform and observe all of its agreements in the Bonds and herein expressed as to be kept, performed and observed by it or on its part, then these presents and the rights hereby granted shall cease, determine and be void.

Any Bond for the payment or redemption of which sufficient monies or Acquired Obligations shall have been deposited with the Paying Agent(s) (whether upon or prior to the stated maturity or the redemption date of such Bonds) shall be deemed to be paid within the meaning hereof and shall no longer be Outstanding hereunder; provided, however, that if such Bonds are to be redeemed prior to their stated maturities, notice of such redemption shall have been duly given as provided in Section 11 hereof or irrevocable arrangements satisfactory to the Paying Agent(s) shall have been made for the giving thereof. The aforesaid Acquired Obligations will be considered sufficient if said obligations, with interest, mature and bear interest in such amounts and at such times as will assure sufficient cash monies to pay currently maturing principal of and interest on the Bonds when due. Such Acquired Obligations may not contain provisions making them subject to redemption prior to their stated maturities other than at the option of the holder thereof.

If the City shall determine that it is desirable to terminate the rights and liens hereunder of the Holders of any Bonds (pursuant to a refunding or otherwise) and shall deposit irrevocably in trust sums which when invested in Acquired Obligations will be sufficient: (A) to pay the principal of and the interest on said Bonds as the same mature or until called for redemption; (B) to pay the principal of and interest due on all Bonds called on said call date together with any redemption premium due thereon; and (C) to pay all Paying Agents fees due in connection with payment of any such principal, redemption premium, if any, and interest, and shall make adequate provision for the publication at the proper time of any required notice of redemption, such Bonds shall thereafter have no right or lien under this Resolution other than the right to receive payment from said special fund and the same shall not be considered to be Outstanding hereunder for any purpose.

**SECTION 26. ARBITRAGE.** No use will be made of the proceeds of the Bonds which, if such use were reasonably expected on the date of issuance of the Bonds, would cause the same to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The City at all times while the Bonds and the interest thereon are Outstanding will comply with the applicable requirements of the Code, including, specifically, Section 148 of the Code and the rebate provisions contained therein, and any valid and applicable rules and regulations promulgated thereunder. In order to insure compliance with the rebate provisions of Section 148(f) of the Code with respect to the Bonds, the City hereby creates the "City of Winter Park Rebate Fund" (hereinafter sometimes called the "Rebate Fund") to be held by the City. The Rebate Fund need not be maintained so long as the City timely satisfies its obligation to pay any rebatable earnings to the United States Treasury; however, the City may, as an administrative convenience, maintain and deposit funds in the Rebate Fund from time to time. Any moneys held in the Rebate Fund shall not be pledged in any manner for the benefit of the Holders of the Bonds. Moneys in the Rebate Fund (including earnings and deposits therein) shall be held for future payment to the United States Government as set forth in instructions of Bond Counsel delivered to the City upon issuance of the Bonds.



**SECTION 27. NO PERSONAL LIABILITY.** Neither the members of the Commission nor any person executing the Bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

**SECTION 28. THIRD PARTY BENEFICIARIES.** Except such other persons as may be expressly described herein or in the Bonds, nothing contained in this Resolution or in the Bonds, expressed or implied, is intended or shall be construed to confer upon any person, other than the City and the Holders, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, or of the Bonds, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the City and the persons who shall from time to time be the Holders.

**SECTION 29. REPEAL OF INCONSISTENT PROVISIONS.** All resolutions or parts thereof in conflict with this resolution are hereby repealed to the extent of such conflict.

**SECTION 30. EFFECTIVE DATE.** This resolution shall take effect immediately upon its adoption.

ADOPTED after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this 9th day of May, 2011.

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Mayor

ATTEST:

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City Clerk

**EXHIBIT A**

**FORM OF OFFICIAL NOTICE OF SALE**  
**AND SUMMARY NOTICE OF SALE**

**EXHIBIT B**

**FORM OF ESCROW DEPOSIT AGREEMENT**

**EXHIBIT C**

**FORM OF PRELIMINARY OFFICIAL STATEMENT**

**EXHIBIT D**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

**EXHIBIT E**

**FORM OF PAYING AGENT AND REGISTRAR AGREEMENT**

**PRELIMINARY OFFICIAL STATEMENT DATED MAY \_\_, 2011**

**NEW ISSUE – BOOK-ENTRY ONLY**

**RATINGS: See "RATINGS" herein**

*In the opinion of Bond Counsel, assuming compliance by the City with certain covenants, under existing statutes, regulations, and judicial decisions, the interest on the Series 2011 Bonds will not be included in the gross income for federal income tax purposes of the holders thereof and will not be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2011 Bonds is taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax on corporations. See "TAX MATTERS" herein for a description of other tax consequences to holders of the Bonds.*

**\$8,000,000\***

**CITY OF WINTER PARK, FLORIDA  
GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011**

**Dated: Date of Delivery**

**Due: July 1 in each year  
as shown on the inside cover**

The City of Winter Park, Florida (the "City") is issuing its General Obligation Refunding Bonds, Series 2011 (the "Series 2011 Bonds") as fully registered bonds, which initially will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). Individual purchases will be made in book-entry form only in denominations of \$5,000 and any integral multiple thereof. Purchasers of the Series 2011 Bonds (the "Beneficial Owners") will not receive physical delivery of the Series 2011 Bonds. Transfer of ownership interests in the Series 2011 Bonds will be effected by DTC's book-entry system as described herein. As long as Cede & Co. is the registered owner as nominee of DTC, principal and interest payments will be made directly to such registered owner which will in turn remit such payments to the Participants (as defined herein) for subsequent disbursement to the Beneficial Owners. Interest on the Series 2011 Bonds is payable semi-annually on January 1 and July 1 of each year, commencing on July 1, 2011. Principal of the Series 2011 is payable, when due, to the registered owners upon presentation and surrender at the designated corporate office of the Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida. All payments of principal of and interest on the Series 2011 Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

The Series 2011 Bonds are being issued to provide funds to (i) refinance previously issued City of Winter Park, Florida General Obligation Bonds, Series 2001, dated November 1, 2001 (the "Refunded Bonds"), which originally financed the acquisition and construction of a new public safety complex housing police facilities, a fire station and fire administration facilities, including existing fire station improvements, communications and emergency operations center facilities and improvements and conversion of existing public safety facilities to general government use after relocation of such public safety facilities, and (ii) pay costs associated with the issuance of the Series 2011 Bonds.

The Series 2011 Bonds will be issued pursuant to the authority of and in full compliance with the Constitution and the laws of the State of Florida, including, particularly, Article VII, Section 12 of the Florida Constitution; Chapter 166, Florida Statutes; Sections 132.33 through 132.47, Florida Statutes; the municipal Charter of the City; Ordinance No. \_\_\_\_ duly enacted by the City Commission of the City (the "City Commission") on May 9, 2011 and Resolution No. \_\_\_\_ duly adopted by the City Commission on May 9, 2011 (collective, the "Bond Resolution") and other applicable provisions of law. Unless otherwise indicated, capitalized terms used in this Official Statement shall have the same meaning established in "APPENDIX C—Form of the Bond Resolution" attached hereto.

The principal of and the interest on the Series 2011 Bonds will be payable from and secured by a pledge of the proceeds of ad valorem taxes to be levied by the City at a rate sufficient to provide for the full and prompt payment of the principal of, redemption premium, if any, and interest on the Series 2011 Bonds.

IN ACCORDANCE WITH THE TERMS OF THE BOND RESOLUTION, THE CITY HAS MADE A PLEDGE OF ITS FAITH, CREDIT AND TAXING POWER FOR THE FULL AND PROMPT PAYMENT OF THE PRINCIPAL OF, REDEMPTION PRICE, IF ANY, AND INTEREST ON THE SERIES 2011 BONDS. A DIRECT ANNUAL TAX SHALL BE LEVIED, NOT IN EXCESS OF AN AMOUNT UPON ALL TAXABLE PROPERTY OF THE CITY TO MAKE SUCH PAYMENTS. PROVISION SHALL BE INCLUDED AND MADE IN THE ANNUAL BUDGET AND TAX LEVY FOR THE LEVY OF SUCH TAXES, WHICH TAX SHALL BE LEVIED AND COLLECTED AT THE SAME TIME, AND IN THE SAME MANNER, AS OTHER AD VALOREM TAXES OF THE CITY ARE ASSESSED, LEVIED AND COLLECTED. THE SERIES 2011 BONDS ARE NOT A DEBT, LIABILITY OR OBLIGATION OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) ARE PLEDGED TO THE PAYMENT OF THE SERIES 2011 BONDS OR ANY INTEREST OR REDEMPTION PRICE THEREON.

The Series 2011 Bonds are not subject to redemption at the option of the City prior to the stated date of maturity.

This cover page contains certain information for quick reference only. It is not, and is not intended to be, a summary of this issue. Investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

*The Series 2011 Bonds are offered when, as and if issued, subject to the approving legal opinion of Bryant Miller Olive, P.A., Orlando, Florida, Bond Counsel. Certain legal matters will be passed upon for the City by Brown, Garganese, Weiss & D'Agresta, P.A., and Bryant Miller Olive P.A., Orlando, Florida, Disclosure Counsel. Public Financial Management, Inc., Orlando, Florida is Financial Advisor*



*to the City in regard to the issuance of the Series 2011 Bonds. The Series 2011 Bonds in definitive form are expected to be available for delivery in New York, New York through the facilities of DTC on or about May \_\_, 2011.*

Electronic bids for the Series 2011 Bonds will be received through the Parity Electronic Bid Submission System as described in the Official Notice of Sale.

Dated: May \_\_, 2011

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\*Preliminary, subject to change.

## MATURITIES, AMOUNTS, INTEREST RATES AND YIELDS

\$\_\_\_\_\_\*

<u>Year</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Initial CUSIP</u> <u>Number**</u>
2012				
2013				
2014				
2015				
2016				
2017				
2018				
2019				
2020				
2021				

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\* Preliminary, subject to change.

\*\* The City is not responsible for the use of the CUSIP Numbers referenced herein nor is any representation made by the City as to their correctness. The CUSIP Numbers provided herein are included solely for the convenience of the readers of this Official Statement.

**RED HERRING LANGUAGE:**

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of the Series 2011 Bonds in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration, qualification or exemption under the securities laws of such jurisdiction. The City has deemed this Preliminary Official Statement "final," except for certain permitted omissions, within the contemplation of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

**CITY OF WINTER PARK, FLORIDA**

401 South Park Avenue  
Winter Park, Florida 32789  
(407) 599-3235

**CITY COMMISSION**

Kenneth W. Bradley, Mayor  
Carolyn Cooper, Commissioner  
Steven Leary, Commissioner  
Tom McMacken, Commissioner  
Sarah Sprinkel, Commissioner

**CITY MANAGER**

Randy Knight

**CITY CLERK**

Cynthia S. Bonham

**FINANCE DIRECTOR**

Charles W. Hamil, III, CPA

**CITY ATTORNEY**

Brown, Garganese, Weiss & D'Agresta, P.A.

**BOND AND DISCLOSURE COUNSEL**

Bryant Miller Olive, P.A.  
Orlando, Florida

**FINANCIAL ADVISOR**

Public Financial Management, Inc.  
Orlando, Florida

No dealer, broker, salesman or other person has been authorized by the City to give any information or to make any representations in connection with the Series 2011 Bonds other than as contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by the City. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2011 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the City, The Depository Trust Company, and other sources which are believed to be reliable, but is not guaranteed as to accuracy or completeness, and is not to be construed as a representation by the City with respect to any information provided by others. The information and expressions of opinion stated herein are subject to change, and neither the delivery of this Official Statement nor any sale made hereunder shall create, under any circumstances, any implication that there has been no change in the matters described herein since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2011 BONDS AT LEVELS ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

All summaries herein of documents and agreements are qualified in their entirety by reference to such documents and agreements, and all summaries herein of the Series 2011 Bonds are qualified in their entirety by reference to the form thereof included in the aforesaid documents and agreements.

NO REGISTRATION STATEMENT RELATING TO THE SERIES 2011 BONDS HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "COMMISSION") OR WITH ANY STATE SECURITIES COMMISSION. IN MAKING ANY INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATIONS OF THE COUNTY AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE SERIES 2011 BONDS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE COMMISSION OR ANY STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. THE FOREGOING AUTHORITIES HAVE NOT PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

## TABLE OF CONTENTS

INTRODUCTION .....	1
General .....	1
City of Winter Park .....	1
Purpose of the Issuance .....	2
Security for and Source of Payment of the Series 2011 Bonds .....	2
Description of the Series 2011 Bonds .....	2
Tax Exemption .....	3
Continuing Disclosure .....	3
Other Information .....	3
AUTHORITY FOR AND PURPOSE OF ISSUANCE .....	4
VERIFICATION .....	4
DESCRIPTION OF THE 2011 BONDS .....	5
General .....	5
Book-Entry Only System .....	6
SECURITY AND SOURCES OF PAYMENT FOR THE 2011 BONDS .....	9
Source of Payment .....	9
Defeasance .....	10
FUNDS AND ACCOUNTS .....	11
Sinking Fund .....	11
Rebate Fund .....	12
AD VALOREM TAX RELATED MATTERS .....	12
General .....	12
Truth in Millage Bill .....	13
Property Assessment Procedure .....	14
Florida Constitutional Limitations and Property Tax Reform .....	15
Millage Rates .....	19
Assessed Valuations .....	19
Procedures for Tax Collection and Distribution .....	20
CITY OF WINTER PARK, FLORIDA .....	23
Background .....	23
Municipal Government .....	23
Investment Policy .....	25
Budgetary and Internal Accounting Controls .....	26
Governmental Funds .....	26
Proprietary Funds .....	27
Basis of Accounting .....	27
Financial Reporting .....	28
LIABILITIES OF THE CITY .....	31
Insurance Considerations Affecting the City .....	31
Ability to be Sued, Judgments Enforceable .....	32
Direct Debt .....	32
Police Employee Pension Plans .....	34
Firefighter Employee Pension Plans .....	38
General Employee 401(a) Pension Plan .....	41
Other Post Employment Benefits .....	42

SOURCES AND USES OF PROCEEDS .....	45
DEBT SERVICE COVERAGE.....	46
LITIGATION .....	47
TAX EXEMPTION .....	48
General.....	48
Tax Treatment of Original Issue Discount for the Series 2011 Bonds.....	49
Tax Treatment of Bond Premium .....	50
Information Reporting and Backup Withholding.....	50
Other Tax Matters Relating to the Bonds .....	51
CONTINUING DISCLOSURE.....	51
DISCLOSURE REQUIRED BY FLORIDA BLUE SKY LAW .....	52
FINANCIAL ADVISOR.....	53
AUDITED FINANCIAL STATEMENTS.....	53
ENFORCEABILITY OF REMEDIES.....	53
CONTINGENT FEES .....	53
ACCURACY AND COMPLETENESS OF OFFICIAL STATEMENT.....	54
AUTHORIZATION OF AND CERTIFICATION CONCERNING OFFICIAL STATEMENT .....	55
 APPENDIX A - GENERAL INFORMATION CONCERNING THE CITY	
APPENDIX B - COMPREHENSIVE ANNUAL FINANCIAL REPORT FISCAL YEAR ENDING SEPTEMBER 30, 2010	
APPENDIX C - FORM OF THE BOND RESOLUTION	
APPENDIX D - FORM OF OPINION OF BOND COUNSEL	
APPENDIX E - FORM OF CONTINUING DISCLOSURE CERTIFICATE	

**OFFICIAL STATEMENT**  
*relating to*  
  
**\$8,000,000\***  
**CITY OF WINTER PARK, FLORIDA**  
**GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011**

**INTRODUCTION**

**General**

The purpose of this Official Statement, which includes the cover page and the appendices hereto, is to furnish information with respect to the issuance and sale of \$8,000,000\* in aggregate principal amount of General Obligation Refunding Bonds, Series 2011 (the "Series 2011 Bonds") by the City of Winter Park, Florida (the "City"). The Series 2011 Bonds are being issued under the authority of and in full compliance with the laws of the State of Florida, including but not limited to, Article VII, Section 12 of the Florida Constitution, Chapter 166, Part II, Florida Statutes, and Sections 132.33 through 132.47, Florida Statutes, Charter of the City and other applicable provisions of law (collectively, the "Act"), and under and pursuant to Ordinance No. \_\_\_\_\_, duly enacted by the City Commission of the City (the "City Commission") on May 9, 2011 and Resolution No. \_\_\_\_\_ duly adopted by the City Commission on May 9, 2011 (collective, the "Bond Resolution").

This introduction is not, and is not intended to be, a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page, inside cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Series 2011 Bonds is made only by means of this Official Statement and is subject in all respects to the information contained herein. For a complete description of the terms and conditions of the Series 2011 Bonds, reference is made to "APPENDIX C - Form of the Bond Resolution" attached hereto.

Unless otherwise indicated, capitalized terms used in this Official Statement shall have the same meaning established in "APPENDIX C - Form of the Bond Resolution" attached hereto.

**City of Winter Park**

The City, incorporated in 1887, is located in Central Florida in north Orange County and is considered part of the Orlando Metropolitan Area. Although the Orlando Metropolitan Area has been on of the top growth areas in the country, generally the City has seen only modest population growth since 1970. The City currently occupies a land area of approximately nine

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\* Preliminary, subject to change.



square miles and serves a population of 23,086, as of September 30, 2010. The City operates under the commission-manager form of government. Policy-making and legislative authority are vested in the City Commission consisting of the Mayor and four commissioners. For more information, see "APPENDIX A - General Information Concerning the City" attached hereto.

### **Purpose of the Issuance**

The Series 2011 Bonds are being issued to provide funds to (i) refinance previously issued City of Winter Park, Florida General Obligation Bonds, Series 2001, dated November 1, 2001 (the "Refunded Bonds"), which originally financed the acquisition and construction of a new public safety complex housing police facilities, a fire station and fire administration facilities, including existing fire station improvements, communications and emergency operations center facilities and improvements and conversion of existing public safety facilities to general government use after relocation of such public safety facilities, and (ii) pay costs associated with the issuance of the Series 2011 Bonds.

### **Security for and Source of Payment of the Series 2011 Bonds**

The principal of and the interest on the Series 2011 Bonds will be payable from and secured by a pledge of the proceeds of ad valorem taxes to be levied by the City at a rate sufficient to provide for the full and prompt payment of the principal of, redemption premium, if any, and interest on the Series 2011 Bonds.

IN ACCORDANCE WITH THE TERMS OF THE BOND RESOLUTION, THE CITY HAS MADE A PLEDGE OF ITS FAITH, CREDIT AND TAXING POWER FOR THE FULL AND PROMPT PAYMENT OF THE PRINCIPAL OF, REDEMPTION PRICE, IF ANY, AND INTEREST ON THE SERIES 2011 BONDS. A DIRECT ANNUAL TAX SHALL BE LEVIED, NOT IN EXCESS OF AN AMOUNT UPON ALL TAXABLE PROPERTY OF THE CITY TO MAKE SUCH PAYMENTS. PROVISION SHALL BE INCLUDED AND MADE IN THE ANNUAL BUDGET AND TAX LEVY FOR THE LEVY OF SUCH TAXES, WHICH TAX SHALL BE LEVIED AND COLLECTED AT THE SAME TIME, AND IN THE SAME MANNER, AS OTHER AD VALOREM TAXES OF THE CITY ARE ASSESSED, LEVIED AND COLLECTED. THE SERIES 2011 BONDS ARE NOT A DEBT, LIABILITY OR OBLIGATION OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) ARE PLEDGED TO THE PAYMENT OF THE SERIES 2011 BONDS OR ANY INTEREST OR REDEMPTION PRICE THEREON.

See "SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2011 BONDS" herein.

### **Description of the Series 2011 Bonds**

Denominations. The Series 2011 Bonds will be issued in denominations of \$5,000 or any integral multiple thereof.

Redemption. The Series 2011 Bonds are not subject to redemption at the option of the City prior to their stated dates of maturity.

Registration and Transfers. Transfer of ownership in the Series 2011 Bonds will be effected by The Depository Trust Company ("DTC") book-entry system as described herein. As long as Cede & Co. is the registered owner as nominee of DTC, principal and interest payments will be made directly to such registered owner which in turn is to remit such payments to the Participants (as hereinafter defined) for subsequent disbursement to the Beneficial Owners (as hereinafter defined). Interest on the Series 2011 Bonds is payable semi-annually on January 1 and July 1 of each year commencing July 1, 2011. See "DESCRIPTION OF THE SERIES 2011 BONDS" herein.

### **Tax Exemption**

In the opinion of Bryant Miller Olive P.A., Bond Counsel, under existing law and assuming compliance with certain arbitrage rebate and other tax requirements referred to herein, interest on the Series 2011 Bonds are excludable from gross income for federal income tax purposes and interest on the Series 2011 Bonds will not be treated as an item of tax preference for purposes of the alternative minimum tax on individuals and corporations; however, such interest will be includable in the calculation of certain corporations' alternative minimum taxable income. See "TAX MATTERS."

### **Continuing Disclosure**

The City has agreed and undertaken, for the benefit of Series 2011 Bondholders (the "Series 2011 Bondholder" or "Holder"), to provide certain financial information and operating data relating to the City, the sources of security for the Series 2011 Bonds, and the Series 2011 Bonds pursuant to Rule 15c2-12 of the Securities and Exchange Commission. See "CONTINUING DISCLOSURE" herein.

### **Other Information**

This Official Statement speaks only as of its date, and the information contained herein is subject to change.

Copies of the Bond Resolution and other documents and information are available, upon request and upon payment to the City of a charge for copying, mailing and handling, from Cynthia S. Bonham, City Clerk, 401 South Park Avenue, Winter Park, Florida 32789, telephone: (407) 599-3277.

For a complete description of the terms and conditions of the Series 2011 Bonds, reference is made to the Bond Resolution, the form of which is included in "APPENDIX C - Form of the Bond Resolution" attached hereto. The description of the Bond Resolution, the Series 2011 Bonds and information from reports contained herein do not purport to be comprehensive or definitive.

## **AUTHORITY FOR AND PURPOSE OF ISSUANCE**

The Series 2011 Bonds are being issued under the authority of and in full compliance with the Act and the Bond Resolution. The Series 2011 Bonds are being issued to (i) refinance the Refunded Bonds, and (ii) pay costs associated with the issuance of the Series 2011 Bonds.

## **PLAN OF REFUNDING**

On March 28, 2000, the City Commission enacted Ordinance No. 2342 (the "Initial Ordinance") finding it necessary and desirable to acquire and construct a new public safety complex to house police facilities, a fire station and fire administration facilities; including existing fire station improvements, communications and emergency operations center facilities and improvements and conversion of existing public safety facilities to general government use after relocation to such public safety complex (the "2001 Project").

Pursuant to the Initial Ordinance, a referendum election was ordered for the purpose of authorizing the issuance of the Refunded Bonds in order to finance the costs of the 2001 Project. A bond referendum was held on May 16, 2000 to determine if the electors approved of the issuance of the Refunded Bonds for the purpose of financing the 2001 Project, payable solely from ad valorem taxes on all the taxable property with the City. Issuance of the Refunded Bonds was approved by a majority the electors of the City. The vote tally was 1,959 in favor and 265 opposed. On November 1, 2001, the City issued the Refunded Bonds in the amount of \$11,000,000.

Upon delivery of the Series 2011 Bonds, a portion the proceeds of the Series 2011 Bonds, together with other legally available funds of the City, if any, will be irrevocably placed in an escrow fund (the "Escrow Fund") with The Bank of New York Mellon Trust Company, N.A., as escrow agent (the "Escrow Agent") pursuant to an Escrow Deposit Agreement (the "Escrow Agreement"). **[Such funds will be applied to purchase certain U.S. Treasury obligations (the "Acquired Obligations"). Such Acquired Obligations will mature at such times and bear interest]** in such amounts so that sufficient moneys will be available from the maturing principal and interest thereof, together with any initial cash balances, to pay the principal of and accrued interest on the Refunded Bonds on July 1, 2011 (the "Redemption Date").

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## VERIFICATION

As of the delivery date of the Series 2011 Bonds, \_\_\_\_\_, certified public accountants will verify, from information provided to them, (a) the mathematical accuracy of the computations contained in schedules provided by the Financial Advisor to determine that the anticipated receipts from the **[Acquired Obligations]** and the initial cash deposit to be held in the Escrow Fund will be sufficient to pay, when due, the principal of and interest on the Refunded Bonds and (b) the "yield" on the Series 2011 Bonds considered by Bond Counsel in connection with their opinion that the Series 2011 Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended. \_\_\_\_\_, will express no opinion on the assumptions provided to them, nor as to the exclusion from gross income for federal income tax purposes of the interest on the Series 2011 Bonds.

## DESCRIPTION OF THE 2011 BONDS

### General

The Series 2011 Bonds shall be issued in the aggregate principal amount stated on the cover page hereof, will be dated the date of delivery, and are issuable in fully registered form, in denominations of \$5,000 and integral multiples thereof. The Series 2011 Bonds will bear interest at the rates per annum set forth on the inside cover page of this Official Statement, payable semi-annually on January 1 and July 1 of each year (each an "Interest Payment Date"), commencing July 1, 2011, and mature on July 1 in the years and principal amounts set forth on the inside cover page of this Official Statement. The principal of, and redemption premium, if any, on the Series 2011 Bonds are payable in any coin or currency of the United States of American which on the respective dates of payment thereof is legal tender for the payment of public and private debts upon presentation of the Series 2011 Bonds at the office of the Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida (the "Paying Agent"). Interest payable on any Series 2011 Bond on any interest payment date will be made by check or draft of the Paying Agent to the person in whose name such Series 2011 Bond is registered on the registration books of the City maintained by U.S. Bank National Association, Jacksonville, Florida as Registrar (the "Registrar") at the close of business on the date which shall be the fifteenth (15th) day of the calendar month (whether or not a business day) next preceding the month in which such interest payment is due. at the close of business on the fifteenth (15th) day of the month (whether or not a business day) next preceding the month in which such interest is due. In lieu of payment by check or draft, and at the request and expense of a registered owner of a Series 2011 Bond, payment may be made by bank wire transfer for the account of such registered owner.

The Series 2011 Bonds shall have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of Florida, subject to the

provisions for registration and transfer contained in the Bond Resolution and the Series 2011 Bonds.

### **Book-Entry Only System**

THE FOLLOWING INFORMATION CONCERNING DTC AND DTC'S BOOK-ENTRY ONLY SYSTEM HAS BEEN OBTAINED FROM SOURCES THAT THE CITY BELIEVES TO BE RELIABLE, BUT THE CITY TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF.

DTC will act as securities depository for the Series 2011 Bonds. The Series 2011 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered certificate will be issued for each maturity of the Series 2011 Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2011 BONDS, AS NOMINEE OF DTC, CERTAIN REFERENCES IN THIS OFFICIAL STATEMENT TO THE SERIES 2011 BONDHOLDERS OR REGISTERED OWNERS OF THE SERIES 2011 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2011 BONDS. THE DESCRIPTION WHICH FOLLOWS OF THE PROCEDURES AND RECORD KEEPING WITH RESPECT TO BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2011 BONDS, PAYMENT OF INTEREST AND PRINCIPAL ON THE SERIES 2011 BONDS TO DIRECT PARTICIPANTS (AS HEREINAFTER DEFINED) OR BENEFICIAL OWNERS OF THE SERIES 2011 BONDS, CONFIRMATION AND TRANSFER OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2011 BONDS, AND OTHER RELATED TRANSACTIONS BY AND BETWEEN DTC, THE DIRECT PARTICIPANTS AND BENEFICIAL OWNERS OF THE SERIES 2011 BONDS IS BASED SOLELY ON INFORMATION FURNISHED BY DTC. ACCORDINGLY, THE CITY NEITHER MAKES NOR CAN MAKE ANY REPRESENTATIONS CONCERNING THESE MATTERS.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants (the "Direct Participants") deposit with DTC. DTC facilitates the post-trade settlement among Direct Participants of securities transactions, in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned

subsidiary of The Depository Trust and Clearing Corporation ("DTCC"). DTCC is a holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the "Indirect Participants"). DTC has Standard and Poor's highest rating: AAA. The DTC rules applicable to DTC and its Direct and Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Series 2011 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for such Series 2011 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2011 Bond (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2011 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their beneficial interests in the Series 2011 Bonds, except in the event that use of the book-entry system for the Series 2011 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2011 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2011 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2011 Bonds. DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2011 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping an account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements made among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Redemption notices shall be sent to DTC. If less than all of the Series 2011 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such bonds, as the case may be, to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2011 Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2011 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2011 Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the City or the Paying Agent on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Direct or Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Direct or Indirect Participants and not of DTC, the Paying Agent or the City, subject to any statutory and regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the County and/or the Paying Agent for the Series 2011 Bonds. Disbursement of such payments to Direct Participants is the responsibility of DTC, and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2011 Bonds at any time by giving reasonable notice to the City. Under such circumstances, in the event that a successor securities depository is not obtained, certificates are required to be printed and delivered.

The City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository) upon compliance by the City with all applicable rules, policies and procedures of DTC regarding the discontinuation of the book-entry only system of registration. In that event, certificates will be printed and delivered.

## **Redemption**

The 2011 Bonds are not subject to redemption at the option of the City prior to maturity.

## **Negotiability, Registration and Transfer**

*So long as the Series 2011 Bonds are registered in the name of DTC or its nominee, the following paragraphs relating to transfer and exchange of Series 2011 Bonds do not apply to the Series 2011 Bonds.*

The Registrar shall keep books for the registration of and for the registration of transfers of the Series 2011 Bonds as provided in the Bond Resolution. The transfer of any Series 2011 Bonds may be registered only upon such books and only upon surrender thereof to the Registrar

together with an assignment duly executed by the Series 2011 Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer the City shall execute and the Registrar shall authenticate and deliver in exchange for each Series 2011 Bond, a new Series 2011 Bond or Series 2011 Bonds registered in the name of the transferee, and in an aggregate principal amount equal to the principal amount of such Series 2011 Bond or Series 2011 Bonds so surrendered.

In all cases in which the Series 2011 Bonds shall be exchanged, the City shall execute and the Registrar shall authenticate and deliver, at the earliest practicable time, a new Series 2011 Bond or Series 2011 Bonds of the same type and for a like aggregate principal amount and maturity. All Series 2011 Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The City or the Registrar may make a charge for every such exchange or registration of transfer of Series 2011 Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any Series 2011 Bondholder for the privilege of exchanging or registering the transfer of Series 2011 Bonds under the provisions of the Bond Resolution. Neither the City nor the Registrar shall be required to make any such exchange or registration of transfer of Series 2011 Bonds during the fifteen (15) days immediately preceding (1) any Interest Payment Date or (2) in the case of Series 2011 Bonds called for redemption, the redemption date designated for such Series 2011 Bonds.

## **SECURITY AND SOURCES OF PAYMENT FOR THE 2011 BONDS**

### **Source of Payment**

The Series 2011 Bonds are general obligations of the City. The full faith, credit and resources of the City are pledged for the full and prompt payments of the principal, interest, charges of the Paying Agent and redemption premiums, if any, and the direct annual tax provided to pay the Series 2011 Bonds shall be levied upon all taxable property, except property of such nature as may be exempt from taxation under the provisions of the Florida Constitution and laws of the State of Florida which are in force and effect at the time of the issuance of the Series 2011 Bonds. The Bond Resolution requires that provision shall be included and made in the annual budget and tax levy for the levy of the ad valorem taxes. Whenever the City shall, in any Series 2011 Bond Year, have irrevocably deposited in the Sinking Fund any monies derived from sources other than the aforementioned ad valorem property tax, said ad valorem property tax may be correspondingly diminished; but any such diminution must leave available an amount of such ad valorem property taxes, after allowance for anticipated delinquencies in collection, fully sufficient, with such monies so deposited from other sources, to assure the prompt payment of principal, interest, charges of the Paying Agent and redemption premiums, if any, falling due prior to the time that the proceeds of the next annual property tax levy will be available. Such ad valorem property taxes shall be levied and collected at the same time, and in the same manner, as other ad valorem property taxes of the City are assessed, levied and collected.



IN ACCORDANCE WITH THE TERMS OF THE BOND RESOLUTION, THE CITY HAS MADE A PLEDGE OF ITS FAITH, CREDIT AND TAXING POWER FOR THE FULL AND PROMPT PAYMENT OF THE PRINCIPAL OF, REDEMPTION PRICE, IF ANY, AND INTEREST ON THE SERIES 2011 BONDS. A DIRECT ANNUAL TAX SHALL BE LEVIED, NOT IN EXCESS OF AN AMOUNT UPON ALL TAXABLE PROPERTY OF THE CITY TO MAKE SUCH PAYMENTS. PROVISION SHALL BE INCLUDED AND MADE IN THE ANNUAL BUDGET AND TAX LEVY FOR THE LEVY OF SUCH TAXES, WHICH TAX SHALL BE LEVIED AND COLLECTED AT THE SAME TIME, AND IN THE SAME MANNER, AS OTHER AD VALOREM TAXES OF THE CITY ARE ASSESSED, LEVIED AND COLLECTED. THE SERIES 2011 BONDS ARE NOT A DEBT, LIABILITY OR OBLIGATION OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT FOR THE CITY) ARE PLEDGED TO THE PAYMENT OF THE SERIES 2011 BONDS OR ANY INTEREST OR REDEMPTION PRICE THEREON.

#### **Defeasance**

If (A) the City shall pay or cause to be paid to the Holders of the Series 2011 Bonds then Outstanding the principal of and the interest to become due thereon at the times and in the manner stipulated therein and herein, (B) all fees, charges and expenses of the Paying Agent shall have been paid, and (C) the City shall keep, perform and observe all of its agreements in the Series 2011 Bonds and expressed in the Bond Resolution as to be kept, performed and observed by it or on its part, then these presents and the rights granted by the Bond Resolution shall cease, determine and be void.

Any Series 2011 Bond for the payment or redemption of which sufficient monies or Acquired Obligations shall have been deposited with the Paying Agent (whether upon or prior to the stated maturity or the redemption date of such Series 2011 Bonds) shall be deemed to be paid within the meaning of the Bond Resolution and shall no longer be Outstanding thereunder; provided, however, that if such Series 2011 Bonds are to be redeemed prior to their stated maturities, notice of such redemption shall have been duly given as provided in Section 11 of the Bond Resolution or irrevocable arrangements satisfactory to the Paying Agent shall have been made for the giving thereof. The aforesaid Acquired Obligations will be considered sufficient if said obligations, with interest, mature and bear interest in such amounts and at such times as will assure sufficient cash monies to pay currently maturing principal of and interest on the Series 2011 Bonds when due. Such Acquired Obligations may not contain provisions making them subject to redemption prior to their stated maturities other than at the option of the holder thereof.

If the City shall determine that it is desirable to terminate the rights and liens under the Bond Resolution of the Holders of any Series 2011 Bonds (pursuant to a refunding or otherwise) and shall deposit irrevocably in trust sums which when invested in Acquired Obligations will

be sufficient: (A) to pay the principal of and the interest on said Series 2011 Bonds as the same mature or until called for redemption; (B) to pay the principal of and interest due on all Series 2011 Bonds called on said call date together with any redemption premium due thereon; and (C) to pay all Paying Agent fees due in connection with payment of any such principal, redemption premium, if any, and interest, and shall make adequate provision for the publication at the proper time of any required notice of redemption, such Series 2011 Bonds shall thereafter have no right or lien under the Bond Resolution other than the right to receive payment from said special fund and the same shall not be considered to be Outstanding under the Bond Resolution for any purpose.

## **FUNDS AND ACCOUNTS**

### **Sinking Fund**

The Bond Resolution created the Sinking Fund (including a Bond Amortization Account therein) to be held by a depository for and administered by the City. Money on deposit in the Sinking Fund (excluding the Bond Amortization Account) shall be used solely for the purpose of paying the principal, redemption premiums, if applicable, and interest on the Series 2011 Bonds as they become due. Money on deposit in the Bond Amortization Account shall be used for the payment of Amortization Installments on Term Bonds, and if more than one stated maturity of Term Bonds is outstanding, allocation of such money shall be made in a separate special subaccount for each stated maturity of Term Bonds. Pending its use, money on deposit in the Sinking Fund may be invested in Authorized Investments, and the income therefrom shall be retained in the Sinking Fund. At least one business day prior to an interest or Amortization Installment payment date, or principal maturity date for the Series 2011 Bonds, the City shall pay or cause to be paid to the Paying Agent for the Series 2011 Bonds, an amount sufficient to pay the interest, Amortization Installment, principal and redemption premium, as applicable, due on the Series 2011 Bonds on such date.

Money held in the Bond Amortization Account shall be applied to the redemption or open market purchase (at not exceeding the price of par and accrued interest) of Term Bonds in accordance with the mandatory redemption provision and/or the schedule of Amortization Installments for such Term Bonds. Amortization Installments for any Term Bonds shall be reduced on a reasonably proportionate basis to the extent that such Term Bonds are purchased in the open market, or shall be adjusted as otherwise approved by the City Manager. The City shall pay from the Sinking Fund all expenses in connection with such purpose or redemption.

In each year while any of such Series 2011 Bonds are outstanding, there shall be levied and collected by the City, a tax without limitation as to rate or amount on all taxable property within the area of the City, sufficient in amount to pay the principal, Amortization Installments, redemption premiums, if applicable, and interest on such Series 2011 Bonds, as the same shall become due, after deducting therefrom any other funds which may be available for such principal, Amortization Installments, applicable redemption premiums and interest payments and which shall actually be so applied. The proceeds of such tax shall be deposited, as received,

into the Sinking Fund and Bond Amortization Account, as applicable, for such purposes, and the Holders of the Series 2011 Bonds shall have a lien upon the proceeds of such tax until so applied for payment of the principal (including any Amortization Installments), redemption premiums, if applicable, and interest on the Series 2011 Bonds.

### **Rebate Fund**

The Bond Resolution created the Rebate Fund to be held by the City. The Rebate Fund need not be maintained so long as the City timely satisfies its obligation to pay any rebatable earnings to the United States Treasury; however, the City may, as an administrative convenience, maintain and deposit funds in the Rebate Fund from time to time. Any moneys held in the Rebate Fund shall not be pledged in any manner for the benefit of the Holders of the Series 2011 Bonds. Moneys in the Rebate Fund (including earnings and deposits therein) shall be held for future payment to the United States Government as set forth in instructions of Bond Counsel delivered to the City upon issuance of the Series 2011 Bonds.

## **AD VALOREM TAX RELATED MATTERS**

### **General**

Under Florida law, the assessment of all properties and the collection of all county, municipal and property taxes are consolidated in the office of the county property appraiser and county tax collector. The laws of the State of Florida regulating tax assessment are designed to assure a consistent property valuation method statewide.

Article VII, Section 9(b) of the Florida Constitution limits the aggregate rate of ad valorem taxes that may be levied on real and personal property. The limitation, except as noted below, is ten (10) mills each for all county and municipal purposes. A mill is equal to one-tenth (0.1) of one cent of one dollar or \$1.00 for every \$1,000 of assessed value. Article VII, Section 9(b) of the Florida Constitution excludes from the general 10 mill cap, ad valorem taxes which are necessary to pay debt service on general obligation bonds, such as the Series 2011 Bonds.

Each respective millage rate, except as limited by law, is set on the basis of estimates of revenue needs and total taxable property valuations within the taxing authority's respective jurisdiction. Ad valorem taxes are not levied in excess of actual budget requirements. In setting millage rates, the City is required by Section 129.01, Florida Statutes to assume a 95% tax collection rate.

In 1973, the State of Florida enacted legislation to encourage public awareness of spending and taxing decisions made by local elected officials. This legislation provides that if the tax rate established by the governing board exceeds the rolled-back tax rate, the taxing authority shall publish notice of the proposed tax increase prior to the public hearing required to be held for the adoption of the final budget and millage rate. Under Section 200.065, Florida

Statutes, a "rolled-back tax rate" is defined as the millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

Article VII, Section 4 of the Florida Constitution provides, with certain exceptions: "By general law regulations shall be prescribed which shall secure a just valuation of all real property for ad valorem taxation." The factors considered in arriving at a just valuation, as set forth in Section 193.011, Florida Statutes, are summarized as follows:

- (1) the present cash value of the property;
- (2) the highest and best use to which the property can be expected to be put in the immediate future and the present use of the property;
- (3) the location of the property;
- (4) the quantity or size of the property;
- (5) the cost of the property and the present replacement value of any improvements to the property;
- (6) the condition of the property;
- (7) the income from the property; and
- (8) the net proceeds of the sale of the property after deduction of certain reasonable fees and costs of sale.

### **Truth in Millage Bill**

The Florida Legislature enacted the Truth in Millage Bill (the "Trim Bill") requiring that only governing bodies of taxing authorities fix the millage rate and requiring that all property be assessed at one hundred percent (100%) of just value. Sections 200.071 and 200.091, Florida Statutes, prohibit the millage for taxing authorities from being set by referendum, except as provided in the Florida Constitution.

## **Property Assessment Procedure**

The laws of the State of Florida require that all taxable real and tangible personal property must be assessed at fair market value, with some exceptions. Real and personal property valuations in Orange County, Florida (the "County") are determined each year as of January 1 by the County Property Appraiser's Office. The County Property Appraiser submits the tax roll to the Florida Department of Revenue for review and determination of, among other things, whether the tax roll meets the requirements of Florida law regarding just valuation. Each taxpayer is given notice by mail of the proposed property taxes and the assessed property value for the current year, and the dates, times and places at which budget hearings are scheduled to be held.

The property owner has the right to file an appeal of the determination of assessed value with the Value Adjustment Board (the "Adjustment Board"), which considers petitions relating to assessments and exemptions. The Adjustment Board is composed of members of the School Board and the Board of County Commissioners. The decision of the Adjustment Board may be appealed to the Circuit Court. The Property Appraisal Adjustment Board certifies the assessment roll upon completion of the hearing of appeals to it. Millage rates are then computed by the various taxing authorities and certified to the County Property Appraiser, who applies the millage rates to the assessment roll. This procedure creates the tax roll, which is then certified and turned over to the County Tax Collector.

Pursuant to Article VII, Section 6 of the Florida Constitution and Section 196.031, Florida Statutes, the first \$25,000 of the assessed valuation of a homestead is exempt from taxation for any person who has title to a residence in such homestead on a permanent basis. Pursuant to the passage of Amendment One on January 29, 2008, each person qualifying for the previous exemption is entitled to an additional exemption of up to \$25,000 of assessed value, applied to the assessed value between \$50,000 and \$75,000. See "- Property Tax Reform" below. Further, agricultural land, non-commercial recreational land, inventory and livestock are assessed at less than 100% of fair market value. In addition, pursuant to Ordinance No. 2448-01 enacted by the City on November 27, 2001, an additional homestead exemption of \$25,000 is granted by the City relating to ad valorem taxes payable to either persons 65 or older subject to certain income limitations.

In the November 7, 2006 general election, the voters of Florida approved Amendments 6 and 7 to the Florida Constitution, which provide for an increase in the homestead (ad valorem tax) exemption to \$50,000 from \$25,000 for certain low-income seniors effective February 1, 2007 and provide a discount from the amount of ad valorem taxes for certain permanently disabled veterans effective December 7, 2006, respectively.

Section 196.1995, Florida Statutes, provides that the City Commission may call a referendum to determine whether it may provide for an economic development ad valorem tax

exemption under Article VII, Section 3 of the Florida Constitution. The City has not adopted any provisions for these exemptions.

### **Florida Constitutional Limitations and Property Tax Reform**

Save Our Homes Amendment. By voter referendum held on November 3, 1992, Article VII, Section 4 of the Florida Constitution was amended by adding thereto a subsection which, in effect, limits the increases in assessed just value of homestead property to the lesser of (1) three percent of the assessment for the prior year or (2) the percentage change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics. Further, the amendment provides that (1) no assessment shall exceed just value, (2) after any change of ownership of homestead property or upon termination of homestead status such property shall be reassessed at just value as of January 1 of the year following the year of sale or change of status, (3) new homestead property shall be assessed at just value as of January 1 of the year following the establishment of the homestead, and (4) changes, additions, reductions or improvements to homestead shall initially be assessed as provided for by general law, and thereafter as provided in the amendment. This amendment is known as the "Save Our Homes" amendment. The effective date of the amendment was January 5, 1993 and, pursuant to a ruling by the Florida Supreme Court, it began to affect homestead property valuations commencing January 1, 1995, with 1994 assessed values being the base year for determining compliance.

Limitations on State Revenue Amendment. In the 1994 general election, Florida voters approved an amendment to the Florida Constitution which is commonly referred to as the "Limitation On State Revenues Amendment." This amendment provides that state revenues collected for any fiscal year shall be limited to state revenues allowed under the amendment for the prior fiscal year plus an adjustment for growth. Growth is defined as an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state revenues allowed under the amendment for the prior fiscal year. State revenues collected for any fiscal year in excess of this limitation are required to be transferred to a budget stabilization fund until the fund reaches the maximum balance specified in the amendment to the Florida Constitution, and thereafter is required to be refunded to taxpayers as provided by general law. The limitation on state revenues imposed by the amendment may be increased by the Legislature, by a two-thirds vote in each house.

The term "state revenues," as used in the amendment, means taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government. However, the term "state revenues" does not include: (1) revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds by the State; (2) revenues that are used to provide matching funds for the federal Medicaid program with the exception of the revenues used to support the Public Medical Assistance Trust Fund or its successor program and with the exception of State matching funds used to

fund elective expansions made after July 1, 1994; (3) proceeds from the State lottery returned as prizes; (4) receipts of the Florida Hurricane Catastrophe Fund; (5) balances carried forward from prior fiscal years; (6) taxes, licenses, fees and charges for services imposed by local, regional, or school district governing bodies, or (7) revenue from taxes, licenses, fees and charges for services required to be imposed by any amendment or revision to the State Constitution after July 1, 1994. This amendment took effect on January 1, 1995, and was first applicable to the State's fiscal year 1995-96. Whether the limitation will have practical impact in the future is not known.

Millage Rollback Legislation. The Florida Legislature recently initiated a substantial review and reform of Florida's property tax structure. During a special legislative session that ended on June 14, 2007, the Florida Legislature adopted Chapter 2007-321, Laws of Florida, a property tax plan which may significantly impact ad valorem tax collections for Florida local governments. One component of the adopted legislation required counties, cities and special districts to rollback their millage rates for the 2007-08 fiscal year to a level that, with certain adjustments and exceptions, would generate the same level of ad valorem tax revenue as in fiscal year 2006-07; provided, however, depending upon the relative growth of each local government's own ad valorem tax revenues from 2001 to 2006, such rolled back millage rates were determined after first reducing 2006-07 ad valorem tax revenues by zero to nine percent (0% to 9%). In addition, the legislation limits how much the aggregate amount of ad valorem tax revenues may increase in future fiscal years. School districts are not required to comply with these particular provisions of the legislation. A local government may override certain portions of these requirements by a supermajority, and for certain requirements, a unanimous vote.

As a result of the millage rollback, the City's general millage rate was reduced from 4.758 mills in fiscal year 2006-07 to 3.995 mills in fiscal year 2007-08. In fiscal year 2008-09, the millage rate was increased from 3.9950 to 4.0923 mills following the guidelines of State law that allowed for an increase of 4.15% based on the average increase in Florida per capital income. The City maintained this same millage rate in fiscal year 2009-10 despite a 3.63% decrease in taxable value. The City maintained the millage rate of 4.0923 for the fiscal year 2010-11.

Constitutional Amendments Related to Ad Valorem Exemptions. On January 29, 2008, in a special election held in conjunction with Florida's presidential primary, the requisite number of voters approved amendments to the Florida Constitution exempting certain portions of a property's assessed value from taxation. The following is a brief summary of certain important provisions contained in such amendments:

1. Provides for an additional exemption for the assessed value of homestead property between \$50,000 and \$75,000, thus doubling the existing homestead exemption for property with an assessed value equal to or greater than \$75,000. See "AD VALOREM TAX RELATED MATTERS - Property Assessment Procedure" for a description of the homestead exemption.

2. Permits owners of homestead property to transfer their "Save Our Homes" benefit (up to \$500,000) to a new homestead property purchased within two years of the sale of their previous homestead property to which such benefit applied if the just value of the new homestead is greater than or is equal to the just value of the prior homestead. If the just value of the new homestead is less than the just value of the prior homestead, then owners of homestead property may transfer a proportional amount of their "Save Our Homes" benefit, such proportional amount equaling the just value of the new homestead divided by the just value of the prior homestead multiplied by the assessed value of the prior homestead. As discussed above, the Save Our Homes amendment generally limits annual increases in ad valorem tax assessments for those properties with homestead exemptions to the lesser of three percent (3%) or the annual rate of inflation.

3. Exempts from ad valorem taxation \$25,000 of the assessed value of property subject to tangible personal property tax. This limitation applies to all taxes, including school district taxes.

4. Limits increases in the assessed value of non-homestead property to 10% per year, subject to certain adjustments. The cap on increases would be in effect for a 10 year period, subject to extension by an affirmative vote of electors.

The amendments were effective for the 2008 tax year (fiscal year 2008-09 for local governments). At this time, it is impossible to estimate with any certainty the level of impact that the constitutional amendments will have on the City, but the impact could be substantial.

Over the last few years, the Save Our Homes assessment cap and portability provisions described above have been subject to legal challenge. The plaintiffs in such cases have argued that the Save Our Homes assessment cap constitutes an unlawful residency requirement for tax benefits on substantially similar property in violation of the equal protection provisions of the Florida Constitution and the Privileges and Immunities Clause of the Fourteenth Amendment to the United States Constitution. The plaintiffs also argued that the portability provision simply extends the unconstitutionality of the tax shelters granted to long-term homeowners by Save Our Homes. The courts in each case have rejected such constitutional arguments and upheld the constitutionality of such provisions; however, there is not assurance that any future challenges to such provisions will not be successful. Any potential impact on the City or its finances as a result of such challenges cannot be ascertained at this time.

In addition to the legislative activity described above, the constitutionally mandated Florida Taxation and Budget Reform Commission (required to be convened every 20 years) (the "Commission") completed its meetings on April 25, 2008 and placed several constitutional amendments on the November 4, 2008 General Election ballot. Three of such amendments were approved by the voters of Florida, which will, among other things, do the following: (a) allow the Legislature, by general law, to exempt from assessed value of residential homes,



improvements made to protect property from wind damage and installation of a new renewable energy source device; (b) assess specified working waterfront properties based on current use rather than highest and best use; (c) beginning in 2010, provide property tax exemption for real property that is perpetually used for conservation; and, for land not perpetually encumbered, require the Legislature to provide classification and assessment of land use for conservation purposes solely on the basis of character or use.

Recently Approved Constitutional Amendments Relating to Ad Valorem Taxation. Additionally, during its 2009 session, the Florida Legislature passed House Bill 833, which provides an additional homestead exemption for deployed military personnel. The exemption would equal the percentage of days during the prior calendar year that the military homeowner was deployed outside of the United States in support of military operations designated by the Legislature. The measure was approved by the voters at the November 2010 General election and took effect January 1, 2011. At this time, it is impossible to estimate with any certainty the level of impact that the constitutional amendment will have on the City.

Other Proposals Affecting Ad Valorem Taxation. The Florida Legislature convened for its 2011 Regular Session on March 8, 2011. During this Regular Session, certain members of the Legislature have proposed several constitutional amendments relating to ad valorem taxation or which otherwise may affect local government finances. Among other things, these legislative initiatives seek to prohibit the increase of assessed value for property whose fair market value declined over the prior year, reduce the limitation on annual increases of non-homestead property from 10% to 3%, provide an additional homestead exemption for first-time homeowners and cap the maximum amount of ad valorem taxes that may be levied on a property to 1.35% of its highest taxable value. It is uncertain at this time whether any such proposals will be passed during the 2011 Regular Session, or the final form thereof. However, during its 2011 Regular Session, the Florida Legislature has passed a proposal amending the state revenue cap measurement for growth from one based on personal income to one based on inflation and population and provides that any revenues in excess of such cap would be used to fund public schools and reduce the required local effort. Such proposal, including any additional proposed constitutional amendments, requires approval by 60% of the voters. At present, the impact of any such proposals on the City's finances cannot be accurately ascertained.

Additionally, a bill has been introduced which seeks to double the amount of the discount for prepayment of ad valorem taxes to 8% in November, 6% in December, 4% in January and 2% in February and also increases the discount for taxpayers who pay their ad valorem taxes on an installment basis. It is uncertain at this time whether such proposal will be passed during the 2011 Regular Session, or the final form thereof. If passed and signed into law, the impact to the City could be substantial.

There can be no assurance that similar or additional legislative or other proposals will not be introduced or enacted in the upcoming legislative session or in the future that would, or might apply to, or have a material adverse effect upon, the City or its finances.

## Millage Rates

The following table shows millage rates for the City for the last ten fiscal years.

**The City of Winter Park, Florida**  
**Direct and Overlapping Property Tax Rates**  
**(rate per \$1,000 of assessed value)**  
**Last Ten Fiscal Years**

Fiscal Year	Direct			Overlapping			Total Direct and Overlapping
	City Operating Millage	City Debt Service	Total City Millage	Orange County	Orange County School Board	St. Johns Water Management District	
2001	3.1720	0.6440	3.8160	5.1639	8.5770	1.1690	18.7259
2002	3.1720	0.6440	3.8160	5.1639	8.4320	0.4620	17.8739
2003	3.4900	0.6440	4.1340	5.1639	7.8780	0.4620	17.6379
2004	3.6540	0.4800	4.1340	5.1639	7.880	0.4620	17.6479
2005	4.6540	0.4360	5.0900	5.1639	7.5400	0.4620	18.2559
2006	4.6980	0.3920	5.0900	5.1639	7.7610	0.4620	18.4769
2007	4.7580	0.3320	5.0900	5.1639	7.1690	0.4620	17.8849
2008	3.9950	0.3123	4.3073	4.3073	7.1210	0.4158	16.2788
2009	4.0923	0.2935	4.3858	4.3858	7.1500	0.4158	16.3863
2010	4.0923	0.3057	4.3980	4.3980	7.6730	0.4158	16.9215

Source: City of Winter Park, Florida, Comprehensive Annual Financial Report, Year Ended September 30, 2010.

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## Assessed Valuations

The following table shows the assessed valuations for the last ten fiscal years.

### The City of Winter Park, Florida Assessed and Estimated Actual Value of Taxable Property Last Ten Fiscal Years

Fiscal Year	<u>Real Property</u>	<u>Personal Property</u>	<u>Centrally Assessed Property</u>	<u>Less: Tax Exempt Property</u>	<u>Total Taxable Assessed Value</u>	<u>Estimated Actual Value</u>	Assessed Value <sup>(1)</sup> as Percentage of Actual Value
2001	\$1,947,215,000	\$191,118,189	\$1,064,951	N/A	\$2,139,398,140	\$2,721,433,388	78.61%
2002	2,151,716,007	180,432,601	975,848	N/A	2,333,124,456	3,065,742,687	76.10
2003	2,339,276,932	178,955,337	1,043,636	N/A	2,519,275,905	3,392,829,376	74.25
2004	3,639,417,177	259,030,726	1,567,854	\$1,061,176,362	2,838,839,395	4,754,200,077	59.71
2005	3,885,288,338	267,935,609	1,762,638	1,095,745,377	3,059,241,208	5,059,845,747	60.46
2006	4,426,794,057	257,145,724	1,082,823	1,285,628,264	3,399,394,340	5,676,613,511	59.88
2007	5,381,449,024	255,814,961	1,232,368	1,653,577,239	3,984,919,114	6,797,466,978	58.62
2008	6,092,025,651	270,877,113	459,411	1,911,127,287	4,452,234,888	7,660,052,254	58.12
2009	6,167,795,263	266,018,186	1,383,948	1,937,693,755	4,497,503,642	7,741,283,098	58.10
2010	5,767,510,307	253,659,029	1,483,032	1,687,749,821	4,334,902,547	7,247,987,510	59.81

<sup>(1)</sup> Assessed values are determined as of January 1 for each fiscal year. Real Property is assessed at 85% of estimated market value and Personal Property assessment at 55%. Estimated actual taxable value is calculated by dividing assessed value by those percentages. Centrally assessed property consists of the railroad lines which are assessed by the State of Florida.

Source: City of Winter Park, Florida, Comprehensive Annual Financial Report, Year Ended September 30, 2010.

## Procedures for Tax Collection and Distribution

All real and tangible personal property taxes are due and payable on November 1 of each year, or as soon thereafter as the tax roll is certified and delivered to the County Tax Collector. The County Tax Collector mails a notice to each property owner on the tax roll for the taxes levied by the County, the Orange County School District, the City and other municipalities within the County and other taxing authorities. Taxes may be paid upon receipt of such notice, with discounts at the rate of four percent (4%) if paid in the month of November; three percent (3%) if paid in the month of December; two percent (2%) if paid in the month of January and one (1%) if paid in the month of February. Taxes paid in the month of March are

without discount. All unpaid taxes on real and personal property become delinquent on April 1 of the year following the year in which taxes were levied. Delinquent real property taxes bear interest at the rate of 18% per year from April 1 until a tax certificate is sold at auction, from which time the interest rate shall be as bid by the buyer of the tax certificate. Delinquent tangible personal property taxes also bear interest at the rate of 18% per year from April 1 until paid. Delinquent personal property taxes must be advertised within 45 days after delinquency, and after May 1, the property is subject to warrant, levy, seizure and sale.

On or before June 1 or the sixtieth day after the date of delinquency, whichever is later, the County Tax Collector must advertise once each week for three weeks and must sell tax certificates on all real property with delinquent taxes. The tax certificates are sold to those bidding the lowest interest rate. Such certificates include the amount of delinquent taxes, the penalty interest accrued thereon and the cost of advertising. Delinquent tax certificates not sold at auction become the property of the County. Florida law provides that real property tax liens are superior to all other liens, except prior Internal Revenue Service liens.

To redeem a tax certificate, the owner of the property must pay all delinquent taxes, the interest that accrued prior to the date of the sale of the tax certificate, charges incurred in connection with the sale of the tax certificate, omitted taxes, if any, and interest at the rate shown on the tax certificate (or interest at the rate of 5%, whichever is higher) from the date of the sale of the tax certificate to the date of redemption. If such tax certificates or liens are not redeemed by the property owner within 2 years, the holder of the tax certificates can cause the property to be sold to pay off the outstanding certificates and the interest thereon. Provisions are also made for the collection of delinquent tangible personal property taxes, but in a different manner which includes the possible seizure of the tangible personal property.

Section 197.016(2), Florida Statutes, requires the County Tax Collector to distribute the taxes collected, to each governmental unit levying the tax. Such distribution is to be made four times during the first two months after the tax roll comes into its possession, and once per month thereafter. The following table shows the property tax levies and collections of the City for the last ten fiscal years.

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**The City of Winter Park, Florida  
Property Tax Levies and Collections  
Last Ten Fiscal Years**

<u>Fiscal Year</u>	<u>Tax Levied for the Fiscal Year<sup>(1)</sup></u>	<u>Collected within the Fiscal Year of the Levy</u>		<u>Collections in Subsequent Years</u>	<u>Total Collections to Date</u>	
		<u>Amount<sup>(2)</sup></u>	<u>Percentage of Levy</u>		<u>Amount</u>	<u>Percentage of Levy</u>
2001	\$8,163,943	\$7,890,858	96.7%	\$13,816	\$7,904,674	96.8%
2002	8,903,203	8,610,296	96.7	30,245	8,640,541	97.0
2003	10,414,687	10,105,507	97.0	89,690	10,195,197	97.9
2004	11,735,762	11,345,540	96.7	74,586	11,420,126	97.3
2005	15,550,041	15,114,883	97.2	39,580	15,154,463	97.5
2006	17,302,917	17,040,486	98.5	34,341	17,074,827	98.7
2007	20,283,238	19,873,611	98.0	23,126	19,896,737	98.1
2008	19,177,111	18,463,803	96.3	49,710	18,513,513	96.5
2009	19,725,151	19,331,226	98.0	49,588	19,380,814	98.3
2010	19,064,901	18,456,523	96.8	43,654	18,500,177	97.0

<sup>(1)</sup> Gross Taxes before discounts.

<sup>(2)</sup> Excludes Orange County's share of tax increment revenue for the Community Development Area Special Revenue Fund. Tax increment revenue from the County for the fiscal year ended September 30, 2010 was \$1,647,839.

Source: City of Winter Park, Florida, Comprehensive Annual Financial Report, Year Ended September 30, 2010.

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**The City of Winter Park, Florida  
Principal Property Tax Payers  
Current Year**

<u>Taxpayer</u>	<u>Taxable Assessed Value</u>	<u>Percentage of Total City Taxable Assessed Value</u>
Winter Park Town Center, LTD (Winter Park Village)	\$39,094,581	0.90%
Mayflower Retirement Center, Inc.	19,657,603	0.45
Proteggere, LLC	19,508,853	0.45
Winter Park Condominium, LP	19,163,237	0.44
Rollins College	18,457,408	0.43
BFC Park Avenue LLC, – Bank of America Building	14,341,909	0.33
Elizabeth Morse Genius Foundation	13,941,587	0.32
Winter Park Village Apts, LLC	13,381,426	0.31
CD90 Mercantile Plaza, LTD – Mercantile Bank Plaza	12,480,570	0.29
Presbyterian Retirement Communities, Inc.	11,672,803	0.27
Other Taxpayers	4,153,202,570	95.81

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Source: City of Winter Park, Florida, Comprehensive Annual Financial Report, Year Ended September 30, 2010.

**CITY OF WINTER PARK, FLORIDA**

**Background**

The City, incorporated in 1887, is located in Central Florida in north Orange County and is considered part of the Orlando Metropolitan Area. Although the Orlando Metropolitan Area has been one of the top growth areas in the country, generally, Winter Park has seen only modest population growth since 1970. The City currently occupies a land area of approximately nine square miles and serves a population of 28,434. The City is empowered to levy a property tax on both real and personal properties located within its boundaries. It is also empowered by state statute to extend its corporate limits by annexation, which occurs periodically when deemed appropriate by the City Commission.

**Municipal Government**

Under Florida law, municipalities have full home rule powers, i.e., the governmental, corporate and proprietary powers to enable them to conduct municipal government. The

governing body of a Florida municipality may enact legislation on any subject matter upon which the State of Florida legislature may act, except as prohibited by the Florida Constitution, Florida Statutes, or, in certain circumstances, the charter of a municipality.

The City operates under the commission-manager form of government. Policymaking and legislative authority are vested in the City Commission consisting of the Mayor and four commissioners. The Commission is responsible, among other things, for passing ordinances, adopting the budget, appointing committees, and hiring both the City Manager and Attorney. The City Manager is responsible for carrying out the policies and ordinances of the Commission, for overseeing the day-to-day operations of the City, and for appointing the heads of various departments. The Commission is elected on a non-partisan basis. Commission members serve three-year staggered terms, with two commission seats or the mayor's seat up for election each year. The mayor and commissioners are elected at large.

Listed below are the current Mayor and Commissioners and their respective term expiration dates.

<u>Commission Members</u>	<u>Date Term Expires</u>
Kenneth W. Bradley, Mayor	March 2012
Steven Leary	March 2014
Sarah Sprinkel	March 2014
Carolyn Cooper	March 2013
Tom McMacken	March 2013

## **Administration**

The City Manager is appointed by the City Commission. The City Manager is responsible for the administration, operation and maintenance of the City, excepting those responsibilities specifically delegated to other appointed officials. There is no definite term of office of the City Manager, as he or she holds office at the pleasure of the City Commission. Among the duties of the City Manager are the appointment of subordinate officers and employees, the supervision of departments, the making of recommendations to the City Commission, the submission of an annual budget, and the submission of an annual report of the operations of the City for the preceding fiscal year.

For administrative purposes, the City is divided into departments. Currently, there are 13 departments, including the Administration, the Finance, the Public Works, Police and Fire-Rescue Departments.

The Finance Department is directed by the Finance Director, who is appointed by and is subject to the supervision and control of the City Manager. The Finance Director has supervision over all financial transactions of the City. The responsibilities of the Finance Director also include furnishing the City Manager such reports and budgets as may be

necessary to fully inform the City Manager as to the financial condition of the City, and such estimates of the revenues and expenses of the City as may be necessary to form the basis of the annual budget and to determine the revenue necessary to be raised each year.

*Randy Knight, City Manager.* [To come].

*Michelle del Valle, Assistant City Manager.* [To come].

*Charles W. Hamil, III, Director of Finance.* Mr. Hamil has a Bachelor of Science Degree in Accounting from Florida Southern College. He is a Certified Public Accountant in Florida with over 24 years experience in municipal finance. Of those 24 years, 7 were spent in public accounting where he specialized in governmental audit and consulting services. Mr. Hamil served 4 years as the Director of Finance for City of Oviedo before becoming Director of Finance for the City of Winter Park in September 1998. Mr. Hamil is a member of the Government Finance Officers Association, the Florida Government Finance Officers Association and the Central Florida Chapter of the Florida Government Finance Officers Association.

## **Investment Policy**

The City's investment policy is governed by an ordinance adopted by the City Commission. Allowable investments include, State Board of Administration's Local Government Surplus Funds Trust Fund (the "SBA"), United States Government Securities, United States Government Agencies (full faith and credit of the United States Government), Federal Instrumentalities (United States Government sponsored agencies which are non-full faith and credit), Non-Negotiable Interest Bearing Time Certificates of Deposit, Repurchase Agreements, Banker's Acceptances, Commercial Paper, State and/or Local Government Taxable and/or Tax-Exempt Debt, Registered Investment Companies (Money Market Mutual Funds) and Intergovernmental Investment Pools. The City's investment policy requires that the investment strategy provide sufficient liquidity to meet the City's operating, payroll and capital requirements that may be reasonably anticipated. Investments of current operating funds are to have maturities not exceeding twelve months.

The following is a summary of cash and investments held by the City at September 30, 2010:

<u>Investment Type</u>	<u>Fair Value</u>
Government National Mortgage Ass'n	\$ 6,741,584
Federal Farm Credit Bank	2,003,950
Federal Home Loan Bank	7,592,631
Federal Home Loan Mortgage Corp.	2,881,795
Federal National Mortgage Ass'n	8,246,536
Local Government Surplus Trust Fund	<u>18,817</u>
<b>Pooled Investments</b>	<b>27,485,313</b>



Carrying amount of deposits	<u>15,210,868</u>
<b>Cash, Cash equivalents &amp; Investments</b>	<b>42,696,181</b>
Federal Home Loan Bank	1,999,237
Federal Home Loan Mortgage Corp.	2,001,620
Federal National Mortgage Ass'n	<u>4,303,703</u>
<b>Other Investments</b>	<b><u>8,304,560</u></b>
<b>Total Cash and Investments</b>	<b>\$51,000,741</b>

## **Budgetary and Internal Accounting Controls**

The annual budget serves as the foundation of the City's financial planning and control. All departments of the City submit requests for appropriation to the City Manager by the end of May each year. The City Manager uses these requests as the starting point for developing a proposed budget. The public's input to the budget process is invited at the beginning of each City Commission meeting beginning in June. A proposed budget is presented to the City Commission and a tentative millage cap is set in July. Work sessions are held in August to discuss funding needs and budgetary priorities. The City Commission is required to hold two public hearings on the budget and millage rate in September and adopt a final budget and millage rate by no later than September 30, the close of the City's fiscal year.

The appropriated budget is prepared by fund and department (e.g., police). Department heads may make transfers of appropriations within a department with City Manager approval. Transfers of appropriations between departments, however, require the approval of the City Commission. Budget-to-actual comparisons are provided in this report for each individual governmental fund for which an appropriated budget has been adopted. For the General Fund and other major special revenue fund (Community Redevelopment Agency), this comparison is presented as required supplemental information. For nonmajor governmental funds, this comparison is presented in the combining financial statements.

The City has prepared a ten year pro-forma forecast for the General Fund and five year Capital Improvements Plan. These schedules provide information to assess the City's long-term financial condition in comparison to the short-term focus of the CAFR and budget.

The Finance Department monitors all financial activity on an ongoing basis. Monthly reports summarizing the City's financial activities are prepared for the City Commission.

## **Governmental Funds**

The General Fund is the City's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

The Community Redevelopment Fund accounts for the activities of the Community Redevelopment Agency.

Special Revenue Funds account for specific revenue sources that are restricted by law or administrative action to expenditures for specific purposes. Non-major special revenue funds include the Designations Trust Fund, Stormwater Utility Fund, Affordable Housing Fund, Law Enforcement Trust Fund, Grant Fund, Parks Impact Fees Fund, Hurricane Recovery Fund, Help Our Park Expand Fund, Police and Firefighter Premium Tax Trust Fund and Cemetery Trust Fund.

The Debt Service Fund accounts for the accumulation of resources for, and payment of principal and interest on, certain general long-term debt.

Capital Projects Funds account for financial resources segregated for the acquisition or construction of major capital facilities. Non-major capital projects funds include the Capital Projects Fund and Stormwater Capital Projects Fund.

### **Proprietary Funds**

The Water and Sewer Fund accounts for the provision of water and sewer service to customers both inside the City limits and to the west, north and east of the City.

The Electric Services Fund accounts for the provision of electric service to certain areas within the City limits.

Enterprise Fund - The City's Golf Course Fund is its only non-major enterprise fund and it accounts for the operation and maintenance of the municipal golf course.

Internal Service Funds account for the financing of goods and services provided by one department to other departments of the City on a cost reimbursement basis. Internal service funds include the Fleet Maintenance Fund, Vehicle Replacement Fund, Employee Insurance Fund and General Insurance Fund.

### **Basis of Accounting**

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers property tax revenues to be available if they are collected within 60 days of the end of the current fiscal period. All other governmental revenues are considered available if they are collected within 180 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences are recorded only when payment is due.

Franchise and utility taxes, state revenue sharing, charges for garbage and stormwater service, fines and forfeitures and investment earnings associated with the current fiscal period are considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period.

When both restricted and unrestricted resources are available for use, it is the City's policy to use restricted resources first, and then unrestricted resources as they are needed.

The City utilizes an indirect cost allocation system to allocate costs incurred in the General Fund that are indirect expenses of other funds. Reimbursements to the General Fund are recorded as expenditures/expenses in the reimbursing fund and as reductions of expenditures in the General Fund. These reimbursements are presented in the Indirect Expenses Allocation column of the Statement of Activities. The Expenses column of this statement includes only the direct expenses of each function.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the City's enterprise and internal service funds are charges to customers for sales and services. Operating expenses for enterprise and internal service funds include the cost of sales and services, administrative expenses, depreciation on capital assets and amortization of intangible assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

## **Financial Reporting**

The Government Finance Officers Association (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its comprehensive annual financial report ("CAFR") for the fiscal year ended September 30, 2009. This was the thirtieth consecutive year that the City has received this prestigious award. In order to be awarded a Certificate of Achievement, the City published an easily readable and efficiently organized CAFR. This report satisfied both Generally Accepted Accounting Principals ("GAAP") and applicable legal requirements.

In addition, the City also received the GFOA's Distinguished Budget Presentation Award for its annual budget document for the fiscal year beginning October 1, 2009. In order to qualify for the Distinguished Budget Presentation Award, the City's budget document was judged to be proficient in several categories, including as a policy document, a financial plan, an operations guide and a communications device.

## General Fund

The General Fund is the primary operating fund of the City. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

Ad valorem property taxation constitutes the single largest source of revenue to the General Fund. The ad valorem property tax is by far the most significant revenue source over which the City can exercise some control. Almost all other revenue sources are limited by statutory rates or are tied to economic activity. Growth in the tax base provided increased revenues for several years followed by property tax reform measures that reduced the operating millage rate. See "AD VALOREM TAX RELATED MATTERS - Florida Constitutional Limitations and Property Tax Reform" herein. Most of the other significant revenue sources have remained relatively stable. Building permit fees peaked in fiscal year 2006 and declined each succeeding year as a result of slowing economic activity in general until stabilizing in fiscal year 2010 and increasing slightly. Sales tax and state revenues have also declined for the same reason. Higher electric rates for fiscal year 2010 increased both electric utility tax and franchise fee revenues.

At the end of the 2009-10 fiscal year, unreserved fund balance of the General Fund was \$6,675,058, while total fund balance was \$9,555,728. Unreserved fund balance represents 17.25% of total expenditures and transfer out for recurring operational costs reported in other funds, while total fund balance represents 24.70% of that same amount. Total fund balance includes reserves for open purchase orders at fiscal year end (\$566,257), inventories (\$73,407), and advance due from the Electric Services Fund (\$2,241,006).

The General Fund's fund balance increased by \$1,406,673 during the 2009-10 fiscal year. The key factors in this increase were the intentional set aside of \$911,735 in projected revenues for the purpose of increasing reserves and departmental budgetary savings. The GFOA recommends, at a minimum, that general-purpose governments maintain unreserved fund balance in their general fund of no less than one to two months of regular general funding operating expenditures (or 8.33 – 16.67%). The City has taken steps to further improve its General Fund balance by setting aside \$2,071,404 in projected revenues to be added to reserves in the fiscal year 2010-11 budget.

The following chart show information regarding the General Fund over the six year period ending September 30, 2011.

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**The City of Winter Park, Florida**  
**Summary Schedule of Revenue, Expenditures and Changes in**  
**Fund Balances – General Fund**  
**For the Year Ended September 30**  
**Audited**

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u> <u>(Budgeted)</u>
<b>Revenues:</b>						
Taxes						
Property Taxes	\$ 14,626,118	\$ 17,315,192	\$ 15,919,159	\$ 16,282,449	\$ 15,697,391	\$ 14,538,871
Utility Taxes	6,270,492	6,265,881	6,298,905	6,497,752	6,930,742	6,921,536
Franchise Fees	928,709	924,327	946,322	1,014,864	1,044,071	1,130,000
Fines and Forfeitures	555,278	664,023	532,597	755,845	337,851	797,500
Licenses and Permits	3,144,780	2,501,672	2,030,338	1,471,454	1,514,321	1,503,800
Intergovernmental						
Sales Tax	3,867,511	3,863,459	3,761,241	3,314,364	3,415,838	3,603,405
Local Option Gas Tax	1,025,448	1,027,780	1,002,879	947,843	958,913	929,000
Other Intergovernmental	2,035,854	1,801,230	2,064,495	1,539,711	1,450,257	1,463,200
Charges for Services	3,820,138	3,524,221	3,663,106	3,776,317	3,716,658	3,708,300
Other	<u>1,447,873</u>	<u>841,518</u>	<u>418,104</u>	<u>339,792</u>	<u>456,458</u>	<u>504,610</u>
Total revenues	<u>37,722,201</u>	<u>38,729,303</u>	<u>36,637,146</u>	<u>35,940,391</u>	<u>35,522,500</u>	<u>35,100,222</u>
<b>Expenditures:</b>						
Current						
General Administration	2,551,982	2,555,650	1,499,908	1,535,789	1,645,189	1,640,590
Communications	-	-	107,452	183,229	173,357	179,806
Financial Services	-	-	420,670	413,199	370,931	356,204
Planning	2,277,389	2,183,577	730,923	565,544	462,913	455,487
Building and Code Enforcement	-	-	1,580,666	1,416,717	1,239,430	1,289,136
Public Works	5,972,516	6,022,377	5,762,445	5,840,949	6,176,119	5,963,583
Police	10,908,745	11,845,242	11,850,238	11,612,502	11,006,590	10,979,550
Fire	8,315,189	9,048,434	9,020,705	9,236,069	9,279,970	8,643,108
Parks and Recreation	6,356,393	6,655,959	6,738,437	6,141,819	5,688,229	5,790,575
Cultural and Community Services	1,333,210	1,394,350	1,372,698	1,428,712	1,386,212	1,411,212
Total expenditures	<u>37,715,424</u>	<u>39,705,589</u>	<u>39,084,142</u>	<u>38,374,529</u>	<u>37,428,940</u>	<u>36,709,251</u>
Excess (deficiency) of revenue over (under) expenditures	<u>6,777</u>	<u>(976,286)</u>	<u>(2,446,996)</u>	<u>(2,434,138)</u>	<u>(1,906,440)</u>	<u>(1,609,029)</u>
Other financing sources (uses):						
Transfers In	4,709,701	5,476,749	5,948,014	5,804,283	5,888,375	5,664,970
Transfers Out	(3,929,860)	(6,732,800)	(2,722,457)	(2,127,307)	(2,575,262)	(1,884,537)
Proceeds from Debt Issuance	<u>112,500</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total other financing sources (uses)	<u>892,341</u>	<u>(1,256,051)</u>	<u>3,225,557</u>	<u>3,676,976</u>	<u>3,313,113</u>	<u>3,780,433</u>
Net Change in Fund Balance	899,118	(2,232,337)	778,561	1,242,838	1,406,673	2,171,404
Fund Balance - Beginning	<u>7,460,875</u>	<u>8,359,993</u>	<u>6,127,656</u>	<u>6,906,217</u>	<u>8,149,055</u>	<u>9,555,728</u>
Fund Balance – Ending	<u>\$ 8,359,993</u>	<u>\$ 6,127,656</u>	<u>\$ 6,906,217</u>	<u>\$ 8,149,055</u>	<u>\$ 9,555,728</u>	<u>\$ 11,727,132</u>

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Years Ended September 30, 2006, 2007, 2008, 2009 and 2010 and Annual Budget 2011 as adjusted to conform to presentation of audited numbers for FYs 2006 - 2010.

## LIABILITIES OF THE CITY

### Insurance Considerations Affecting the City

The City is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omission; and natural disasters. The City is insured for workers' compensation, general liability and automobile liability coverage under an All Lines Aggregate Plan.

Under the All Lines Aggregate Plan, the city retains risk on aggregate claims per claim year basis as follows:

<u>Type of Risk</u>	<u>Amount of Risk Retained by City</u>
Property Liability	\$ 75,000
General Liability	50,000
Police Liability	50,000
Automobile Liability	50,000
Public Officials Liability	50,000
Workers' Compensation Liability	250,000
Crime Liability	50,000
Maximum Aggregate Claim Loss	550,000

Liabilities are recorded when it is probable that a loss has occurred and the amount of the loss can be reasonably estimated. Liabilities include an amount for claims that have been incurred but not reported ("IBNRs"). Claims liabilities are calculated considering the effects of inflation, recent claim settlement trends including frequency and amount of pay-outs and other economic and social factors. These claims liabilities are included in accrued liabilities in the financial statements. Changes in the balances of claims liabilities during the past year are as follows:

	<u>Fiscal Year Ending September 30, 2010</u>	<u>Fiscal Year Ending September 30, 2009</u>
Unpaid claim, beginning of fiscal year	\$ 950,255	\$1,282,354
Incurred claims (including IBNRs)	836,859	222,492
Claim payments	<u>(945,959)</u>	<u>(557,591)</u>
Unpaid claims, end of fiscal year	\$ 841,155	\$ 950,255

Settled claims resulting from these risks have not exceeded insurance coverage in any of the past five years. Premiums are paid into the General Insurance Fund, an internal service fund, by all other funds and are available to pay the insurance premiums when due. No significant reductions in insurance coverage from the prior year have been made. The City does not participate in any risk pools.

## **Ability to be Sued, Judgments Enforceable**

Notwithstanding the liability limits described below, the laws of the State provide that each city has waived sovereign immunity for liability in tort to the extent provided in Section 768.28, Florida Statutes. Therefore, the City is liable for tort claims in the same manner and, subject to limits stated below, to the same extent as a private individual under like circumstances, except that the City is not liable for punitive damages or interest for the period prior to judgment. Such legislation also limits the liability of a city to pay a judgment in excess of \$100,000 to any one person or in excess of \$200,000 because of any single incident or occurrence. Judgments in excess of \$100,000 and \$200,000 may be rendered, but may be paid from City funds only pursuant to further action of the Florida Legislature in the form of a "claims bill." See "LIABILITIES OF THE CITY – Insurance Considerations Affecting the City" herein. Notwithstanding the foregoing, the City may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it without further action by the Florida Legislature, but the City shall not be deemed to have waived any defense or sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortuous acts in excess of the \$100,000 or \$200,000 waiver provided by Florida Statutes. See "LITIGATION" herein.

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## Direct Debt

The City has met certain of its financial needs through debt financing. The table which follows is a schedule of the outstanding debt of the City General Government as of September 30, 2010.

	Principal <u>Amount Issued</u>	Principal Amount Outstanding as of <u>September 30, 2010</u>
General Obligation Bonds <sup>(1)(2)</sup>		
Series 2001	\$11,000,000	\$7,625,000
Series 2004	3,795,000	2,060,000
Non-Ad Valorem Revenue Notes <sup>(3)</sup>		
Series 2006	\$4,360,000	\$2,818,009
Series 2007	2,230,000	2,085,000
Series 2010	2,370,000	2,370,000
Community Redevelopment Agency Notes <sup>(4)</sup>		
Series 2003-1	\$3,165,000	\$2,380,000
Series 2003-2	2,950,000	2,230,000
Series 2005-1	807,310	683,586
Series 2005-2	1,799,690	1,565,398
Series 2006	2,155,000	1,870,000
Series 2010	8,100,000	8,100,000
Water and Sewer Revenue Bonds <sup>(5)</sup>		
Series 2002	\$25,000,000	\$18,660,000
Series 2004	40,075,000	13,400,000
Series 2009	45,685,000	45,685,000
Electric Revenue Bonds <sup>(6)</sup>		
Series 2005A	\$42,025,000	\$17,210,000
Series 2005B	7,775,000	5,200,000
Series 2007	22,135,000	22,135,000
Series 2009A	28,020,000	28,020,000
Series 2009B	6,965,000	6,965,000
Total Direct Debt	<u>\$260,412,000</u>	<u>\$191,061,993</u>

(1) Does not include the Bonds described herein.

(2) The General Obligation Bonds are general obligations of the City and are payable from and secured by a lien upon and pledge of the revenues received from the levy and collection by the City of voted debt service millage on all the taxable property within the City. These General Obligation Bonds are secured with the same security as the Series 2011 Bonds.

(3) The Non-Ad Valorem Revenue Notes are special obligations of the City payable from the monies budgeted and appropriated by the City Commission for such purpose in each year from legally available non-ad valorem revenues.



- (4) The Community Redevelopment Agency Notes are special obligations of the City's Community Redevelopment Agency ("CRA") payable from tax increment revenues of the CRA.
- (5) The Water and Sewer Revenue Bonds are secured by future water and sewer customer revenue, net of specified operating expenses.
- (6) The Electric Revenue Bonds are secured by future electric customer revenue, net of specified operating expenses.

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

## **PENSION AND OTHER POST EMPLOYMENT BENEFIT PLANS**

The City sponsors and administers three pension plans covering substantially all the full-time employees. The City's policy is to fund the annual pension costs in the annual budget.

Employees of the Police and Fire Departments are enrolled in separate defined benefit pension plans adopted by the City effective August 4, 1959 for the police officers and January 1, 1959 for the firefighters. Annual costs of the pension plans are actuarially computed and include amortization of past service costs over a period of thirty (30) years.

The City accounts for its pension plans in accordance with Governmental Accounting Standards Board (GASB), Statement No. 25, *Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans*, and GASB Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*. These statements require the recording of defined benefit plan investments at market value.

General employees are enrolled in a defined contribution 401(a) pension plan established January 1, 1992, as described in Note 14(C). The assets, liabilities, fund equity and operations of this plan are not presented on the City's financial statements as the plan is independently administered.

### **Police Employee Pension Plans**

Plan Description. The City Police Officers' Pension Plan (the "Police Plan"), a single-employer defined benefit plan, was created August 4, 1959, by the City by Chapter 74, Article V, Division 4 of the City Code, and under the provisions of general law pertaining to Municipal Police Officers' Retirement Trust Fund (Chapter 185, Florida Statutes). The Police System is administered by the Winter Park Police Officers' Retirement System, which is composed of five members (two members appointed by the City Commission, two members shall be employees of the police department and one member who is appointed by the other board members) (the "Police Trustees"). The Police Plan Trust Fund (the "Police Trust Fund") is included as part of the City's reporting entity. The Police Trust Fund does not issue a stand-alone financial report.

All full-time police officers who are regular members of the police department of the City are members of this retirement system. As of September 30, 2010, the System had 82 active participants, 46 retirees/beneficiaries, five Deferred Retirement Option Program ("DROP") retirees, three disabled participants and three vested/terminated participants. The total payroll for eligible employees covered by this Police Plan was \$5,254,000.

The current benefits are defined as 3.00% of the Average Final Compensation for each year of Credited Service. The Average Final Compensation period is defined as the average of the best 60 successive calendar months out of the last 120 months (all pay is included, excluding special detail pay). This benefit would be payable for the life of the retiree, with 10 years of payments guaranteed in any event. The normal retirement date for a member of the Police Plan is the first month coinciding with or following the earlier of age 55 and the completion of 10 years of Credited Service or the completion of 20 years of Credited Service regardless of age. A member of the Police Plan is eligible for early retirement at the attainment of age 50 with completion of 10 years of Credited Service. The benefit is the same as normal retirement, but reduced 3% for each year that the early retirement precedes the normal retirement date.

If a Police Plan member dies while in service before becoming eligible for any retirement benefits, the beneficiary will receive the greater of (a) the accrued benefit at the time of death, or (b) 30% of monthly salary at the time of death payable to the spouse until his/her death. If a Police Plan member dies while not in service the benefit is determined as though retirement had occurred at the time of death unless the deceased had less than 10 years of Credited Service, in which case the employee's contribution is returned with 5% interest or with more than 10 years of service the accrued benefit is payable for 10 years. Police Plan members are eligible for disability benefits if such disability is total and permanent and members are covered from date of hire for in service disabilities and after completion of 10 years of Credited Service for non-service disabilities. Disability benefits are based on the accrued benefit. And the minimum benefit is 42 percent of the Average Final Compensation if the disability occurred in service. Members of the Police Plan who retire on or after October 1, 2002 are eligible for a 3.0% automatic lifetime cost of living adjustment beginning at age 60.

Summary of Accounting Policies. The Police Trust Fund uses the accrual basis of accounting to determine the reporting of contributions, benefits paid and refunds paid. Contributions are recognized when due pursuant to formal commitments (as well as statutory requirements). Benefits and refunds are recognized when due and payable in accordance with the terms of the Police Plan.

The investments of the Police Trust Fund are administered and managed by investment consultants. Investments are reported at fair value and are managed by third party money managers. The City's independent custodian and the individual money managers price each instrument and reconcile material differences. Investments that do not have an established market are reported at estimated fair value.

Funding Policy, Contributions, Status and Progress. The Police System is funded under the provisions of City by Section 74-205 of the City Code and Chapter 185.07, Florida Statutes. Funding arrangements include contributions by retirement system members, the City, percentage of casualty insurance premiums collected on property located within the corporate limits of the City, accretions to the fund by way of interest on bank deposits or otherwise, and any other source of income authorized by law to increase the retirement fund such as private donations, gifts and contributions.

The Police Plan's funding policy provides for (1) contributions by Police Plan members in the amount of 6% of their compensation; (2) periodic employer contributions, which are at actuarially determined rates that, expressed as percentages of annual covered payroll, are sufficient to accumulate sufficient assets to pay benefits when due (for fiscal year 2009-10, the City's contribution equaled 22.9% of annual covered payroll); and (3) excise taxes on gross receipts of casualty insurance premiums (for fiscal year 2009-10, the Police Plan received \$260,880).

<u>Fiscal Year</u>	<u>Annual Required Contribution</u>	<u>Employer Contribution</u>	<u>State Contribution</u>	<u>Total Contribution</u>	<u>Percent Contributed</u>
2004	\$ 682,310	\$ 297,035	\$385,275	\$ 682,310	100%
2005	956,954	731,004	225,950	956,954	100
2006	1,038,295	757,440	280,855	1,038,295	100
2007	1,509,502	980,473	289,722	1,270,195	84
2008	1,460,137	852,716	264,251	1,116,967	76
2009	1,258,537	896,264	282,690	1,178,954	94
2010	1,467,431	1,187,235	260,880	1,448,115	99

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Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

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The following is funded status information for the plan as of October 1, 2010, the most recent actuarial valuation date (in thousands):

Actuarial Valuation Date	Market Value of Assets <sup>(1)</sup>	Actuarial Value of Assets	Actuarial Accrued Liability (AAL) Entry Age	Unfunded AAL (UAAL)	Funded Ratio	Covered Payroll	UAAL as a % of Covered Payroll
9/30/2004	\$ 25,610	\$23,134	\$27,666	\$4,532	83.6%	\$4,891	92.7%
9/30/2005	27,635	24,748	30,536	5,788	81.0	5,537	104.5
9/30/2006	28,660	26,940	32,939	5,999	81.8	5,082	118.0
9/30/2007	33,373	31,986	35,776	3,790	89.4	5,152	73.6
9/30/2008	29,356	32,985	40,390	7,405	81.7	5,166	143.3
9/30/2009	28,536	32,833	42,575	9,742	77.1	5,254	185.4
9/30/2010	30,972						

(1)

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

Annual Pension Cost. For 2010, the City's annual pension cost was \$1,481,361. The actual contribution was approximately \$1,451,733, which is approximately 98% of the annual pension cost.

Actuarial Assumptions and Actuarial Cost Method. The methodology utilized by the Police Plan is the Entry Age Normal Cost Method. Under this method, a Normal Cost is determined. This Normal Cost is calculated such that if this level percentage of payroll is contributed every year, and all of the assumptions are met, then there will be enough money in the Police Trust Fund to pay all promised benefits when due. The Normal Cost is currently 22.1% of the payroll for the Police Plan. In addition to the Normal Cost, an extra positive or negative contribution is made in order to account for deviations from the expectations of the Police Plan. The unfunded Actuarial Accrued Liability is a measure of how much money needs to be contributed in addition to the annual Normal Cost in order to fund all future benefits based on the Police Plan's assumptions.

Fiscal Year Ended	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension (Asset)
9/30/2008	\$1,458,003	77%	\$606,086
9/30/2009	1,253,657	94	680,789
9/30/2010	1,481,361	99	714,035

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

The City's annual pension cost and NPO to the Police Plan for the fiscal year ended September 30, 2010 were developed as follows:

Fiscal Year Ended September 30, 2010	Annual
Annual Required City Contribution (ARC)	\$ 1,467,431
Interest on Net Pension Obligation (NPO)	56,165
Adjustment to ARC	<u>(42,235)</u>
Annual Pension Cost (APC)	1,481,361
City and State Contributions Made	<u>(1,448,115)</u>
Increase in NPO	33,246
NPO Beginning of Year	<u>680,789</u>
NPO End of Year	\$ 714,035

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

### **Firefighter Employee Pension Plans**

Plan Description. The City Firefighter Officers' Pension Plan (the "Firefighter Plan"), a single-employer defined benefit plan, was created January 1, 1959, by Chapter 74, Article V, Division 3 of the City Code. The Firefighters System is administered by the Winter Park Firefighters' Pension Fund, which is composed of five members (two members appointed by the City Commission, two members shall be City firefighters and one member who is appointed by the other board members) (the "Firefighter Trustees"). The Firefighter Plan Trust Fund (the "Firefighter Trust Fund") is included as part of the City's reporting entity. The Firefighter Trust Fund does not issue a stand-alone financial report.

All uniformed firefighters officers of the City are members of this retirement system. As of September 30, 2010, the System had 67 active participants, 30 retirees/beneficiaries, four DROP retirees, two disabled participants and one vested/terminated participants. The total payroll for eligible employees covered by this Firefighter Plan was \$4,838,000.

The current benefits are defined as 3.00% of the Average Final Compensation for each year of Credited Service. The Average Final Compensation period is defined as the average of the best 60 successive calendar months out of the last 120 months (all pay is included, excluding special detail pay). This benefit would be payable for the life of the retiree, with 10 years of payments guaranteed in any event. The normal retirement date for a member of the Firefighter Plan is the first month coinciding with or following the earlier of age 55 and the completion of 10 years of Credited Service or the completion of 20 years of Credited Service regardless of age. A member of the Firefighter Plan is eligible for early retirement at the attainment of age 50 with completion of 10 years of Credited Service. The benefit is the same as normal retirement, but reduced 3% for each year that the early retirement precedes the normal retirement date.

If a Firefighter Plan member dies while in service before becoming eligible for any retirement benefits, the beneficiary will receive the greater of (a) the accrued benefit at the time of death, or (b) 30% of monthly salary at the time of death payable to the spouse until his/her death. If a Firefighter Plan member dies while not in service the benefit is determined as though retirement had occurred at the time of death unless the deceased had less than 10 years of Credited Service, in which case the employee's contribution is returned with 5% interest or with more than 10 years of service the accrued benefit is payable for 10 years. Firefighter Plan members are eligible for disability benefits if such disability is total and permanent and members are covered from date of hire for in service disabilities and after completion of 10 years of Credited Service for non-service disabilities. Disability benefits are based on the accrued benefit. And the minimum benefit is 42 percent of the Average Final Compensation if the disability occurred in service. Members of the Firefighters Plan who retire on or after October 1, 2002 are eligible for a 3.0% automatic lifetime cost of living adjustment beginning at age 60.

Summary of Accounting Policies. The Firefighter Trust Fund uses the accrual basis of accounting to determine the reporting of contributions, benefits paid and refunds paid. Contributions are recognized when due pursuant to formal commitments (as well as statutory requirements). Benefits and refunds are recognized when due and payable in accordance with the terms of the Firefighter Plan.

The investments of the Firefighter Trust Fund are administered and managed by investment consultants. Investments are reported at fair value and are managed by third party money managers. The City's independent custodian and the individual money managers price each instrument and reconcile material differences. Investments that do not have an established market are reported at estimated fair value.

Funding Policy, Contributions, Status and Progress. The Firefighter System is funded under the provisions of City by Section 74-155 of the City Code. Funding arrangements include contributions by retirement system members, the City, percentage of hazard insurance premiums issued to residents of the City as provided in Chapter 175, Florida Statutes, accretions to the fund by way of interest on bank deposits or otherwise, and any other source of income authorized by law to increase the retirement fund such as private donations, gifts and contributions.

The Firefighter Plan's funding policy provides for (1) contributions by Firefighter Plan members in the amount of 6% of their compensation; (2) periodic employer contributions, which are at actuarially determined rates that, expressed as percentages of annual covered payroll, are sufficient to accumulate sufficient assets to pay benefits when due (for fiscal year 2009-10, the City's contribution equaled 28.0% of annual covered payroll); and (3) excise taxes on gross receipts of hazard insurance premiums (for fiscal year 2009-10, the Firefighter Plan received \$399,618).

<u>Fiscal Year</u>	<u>Annual Required Contribution</u>	<u>Employer Contribution</u>	<u>State Contribution</u>	<u>Total Contribution</u>	<u>Percent Contributed</u>
2004	\$ 785,317	\$ 535,623	\$ 249,694	\$ 785,317	100%
2005	1,081,544	823,182	258,362	1,081,544	100
2006	1,168,068	870,265	297,803	1,168,068	100
2007	1,503,094	1,021,369	333,607	1,354,976	90
2008	1,525,495	960,801	363,890	1,324,691	87
2009	1,634,076	1,153,948	375,084	1,529,032	94
2010	1,657,519	1,137,419	399,618	1,537,037	93

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

The following is funded status information for the plan as of October 1, 2010, the most recent actuarial valuation date (in thousands):

<u>Actuarial Valuation Date</u>	<u>Market Value of Assets<sup>(1)</sup></u>	<u>Actuarial Value of Assets</u>	<u>Actuarial Accrued Liability (AAL) Entry Age</u>	<u>Unfunded AAL (UAAL)</u>	<u>Funded Ratio</u>	<u>Covered Payroll</u>	<u>UAAL as a % of Covered Payroll</u>
9/30/2004	\$ 20,231	\$ 18,849	\$ 22,405	\$ 3,556	84.1%	\$ 4,381	81.2%
9/30/2005	22,772	20,589	25,400	4,811	81.1	4,541	105.9
9/30/2006	24,527	24,213	28,271	4,058	85.6	4,941	82.1
9/30/2007	28,153	26,897	31,129	4,232	86.4	5,323	79.5
9/30/2008	26,574	28,964	34,639	5,675	83.6	5,085	111.6
9/30/2009	27,534	30,139	37,172	7,033	81.1	4,838	145.4
9/30/2010	30,938						

(1)

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

Annual Pension Cost. For 2010, the City's annual pension cost was \$1,667,632. The actual contribution was approximately \$1,534,221, which is approximately 92% of the annual pension cost.

Actuarial Assumptions and Actuarial Cost Method. The methodology utilized by the Firefighter Plan is the Entry Age Normal Cost Method. Under this method, a Normal Cost is determined. This Normal Cost is calculated such that if this level percentage of payroll is contributed every year, and all of the assumptions are met, then there will be enough money in

the Firefighter Trust Fund to pay all promised benefits when due. The Normal Cost is currently 28.6% of the payroll for the Firefighter Plan. In addition to the Normal Cost, an extra positive or negative contribution is made in order to account for deviations from the expectations of the Firefighter Plan. The unfunded Actuarial Accrued Liability is a measure of how much money needs to be contributed in addition to the annual Normal Cost in order to fund all future benefits based on the Firefighter Plan's assumptions.

Fiscal Year Ended	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension (Asset)
9/30/2008	\$ 1,524,091	85%	\$ 390,033
9/30/2009	1,630,633	91	534,469
9/30/2010	1,667,632	92	665,064

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

The City's annual pension cost and NPO to the Firefighter Plan for the fiscal year ended September 30, 2010 were developed as follows:

Fiscal Year Ended September 30, 2010	Annual
Annual Required City Contribution (ARC)	\$ 1,657,519
Interest on Net Pension Obligation (NPO)	41,421
Adjustment to ARC	<u>(31,308)</u>
Annual Pension Cost (APC)	1,667,632
City and State Contributions Made	<u>(1,537,037)</u>
Increase in NPO	130,595
NPO Beginning of Year	<u>534,469</u>
NPO End of Year	\$ 665,064

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

### **General Employee 401(a) Pension Plan**

The City maintains a single-employer, defined contribution pension plan for the General Employees (the "General Employee Plan"). This is a tax-qualified plan pursuant to Section 401(a) of the Internal Revenue Code. The General Employee Plan was established as of January 1, 1992 by adoption of the City Commission through Ordinance No. 1987. The General Employee Plan Ordinance may be amended by the City Commission after public notice has been made, and two public hearings are held. All full-time general employees hired after January 1, 1992 are eligible for participation in the General Employee Plan. All employees hired before January 1, 1992 were brought into the plan. As of September 30, 2010, there were 341 employees enrolled in the General Employee Plan.



The General Employee Plan, administered by an outside party, provides for employer contributions based on years of service as outlined in the table below. Earnings include W-2 earnings, plus any contributions made pursuant to a salary reduction agreement, which are not includible in the gross income of the employee under Section 125 of the Internal Revenue Service Code. The employee is required to contribute 3% of his/her earnings as defined above beginning October 1, 1992. The vesting schedule provides for employees hired prior to October 1, 2006 to be 100% vested after the period of one year. For employees hired after October 1, 2006, 100% vesting occurs after five years of service have been completed. The normal retirement age has been designated by the employer as age 65. The General Employee Plan permits withdrawals for retirement, termination and disability. The General Employee Plan does allow participants to borrow against their accounts. City contributions to the plan are based on years of service as follows:

<u>Years of Service</u>	<u>Percentage of Payroll Contributed by City</u>
0 – 7	7.0%
7 – 10	8.0
10 – 15	8.0
15 – 20	9.0
20+	9.0

Payroll for covered employees	\$17,432,661
Total City payroll	28,082,344
Employer contributions required and actually made	1,247,445
Employee contributions actually made – 3% of covered payroll	522,980

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

Contributions to the General Employee Plan may be amended by resolution of the City Commission.

### **Other Post Employment Benefits**

Plan Description. The Other Post-employment Benefit Plan ("OPEB Plan") is a single-employer benefit plan administered by the City. Retirees are charged whatever the insurance company charges for the type of coverage elected. However, the premiums charged by the insurance company are based on a blending of the experience among younger, active employees and older, retired employees. Since the older retirees actually have higher costs, it means that the City is subsidizing the cost of the retiree coverage because it pays all or a significant portion of that premium on behalf of the active employees. GASB No. 45 calls this the "implicit rate subsidy." Retirees and their dependents are permitted to remain covered

under the City's respective medical and insurance plans, as long as they pay a full premium applicable to coverage elected. This conforms to the minimum required of Florida governmental employers per Chapter 112.08, Florida Statutes. The OPEB Plan does not issue a stand-alone report.

Funding Policy. For the OPEB Plan, contribution requirements of the City are established and may be amended through action of the City's Board of Supervisors. Currently, the City's OPEB benefits are unfunded. The required contributions are based on pay-as-you-go financing requirements. There is no trust fund or equivalent arrangement into which the City would make contributions to advance-fund the obligation. Therefore, ultimate subsidies, which are provided over time, are financed directly by general assets of the City, which are invested in accordance with the investment policy previously described. The interest rate used to calculate the present values and costs of OPEB must be the long-range expected return on those investments. The City selected an interest rate of 4% for this purpose.

Annual OPEB Cost and Net OPEB Obligation. The City's annual OPEB cost (expense) is calculated based on the ARC of the employer, an amount actuarially determined in accordance with the parameters of GASB No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal costs each year and amortize any unfunded actuarial liabilities (or funding excess) over a period, not to exceed 30 years.

The following table shows the components of the City's net obligation to the OPEB Plan:

	Fiscal Year 2010 Valuation as of 10/01/2008	Fiscal Year 2009 Valuation as of 10/01/2008
Normal cost (service cost for one year)	\$ 68,019	\$ 68,019
Amortization of unfunded actuarial accrued liability	196,177	196,177
Interest on normal cost and amortization	<u>4,820</u>	<u>4,820</u>
Annual required contribution (ARC)	269,616	269,616
Interest on OPEB obligation	4,085	-
Adjustments to ARC	<u>(5,769)</u>	<u>-</u>
Annual OPEB cost (expense)	268,022	269,616
Employer contributions made	<u>(164,850)</u>	<u>(167,496)</u>
Increase in net OPEB obligation	103,172	102,120
Net OPEB obligation beginning of year	<u>102,120</u>	<u>-</u>
Net OPEB obligation end of year	\$ 205,292	\$ 102,120

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

Calculations are based upon the types of benefits provided under the terms of the OPEB Plan at the time of the valuation and on the pattern of sharing of costs between the employer and plan

members to that point. The City's annual OPEB cost, the percentage of annual expected employer contribution toward OPEB cost, and the net OPEB obligation for 2010 and the preceding year were as follows:

Fiscal Year Ended	Annual OPEB Cost	Employer Contributions Toward OPEB Cost	Percentage of Annual OPEB Cost Contributed	Unfunded OPEB Obligation
9/30/2009	\$268,022	\$164,850	61.5%	\$1,595,582
9/30/2010	269,616	167,496	62.1	1,608,742

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

Funding Status and Funding Progress. As of October 1, 2009, the OPEB Plan was unfunded. The actuarial accrued liability ("AAL") for benefits was \$1,595,582. Assets of the OPEB Plan are valued at market; however, the current value is \$0, resulting in an unfunded actuarial accrued liability ("UAAL") of \$1,595,582. The covered payroll (annual payroll of active employees covered by the OPEB Plan) was \$25,208,613. The ratio of the UAAL to the covered payroll was 6.33%.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, termination, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the OPEB Plan and the ARC are subject to continued revision, as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the AAL.

Actuarial Methods and Assumptions. In any long-term actuarial valuation, certain assumptions are made regarding the population, the investment discount rates, and the benefits provided. The actuarial assumptions included healthcare cost trend rates of 9%, decreased annually to an ultimate rate of 4.5% after five years. The remaining amortization period at September 30, 2010, was 29 years. The Entry Age actuarial cost method was used, with amortization of the UAAL as a level percent of expected payroll (closed over 30 years). This is the most common method used for government pension valuations (and, likely, for OPEB valuations). The actuarial methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

## SOURCES AND USES OF PROCEEDS

The table that follows summarizes the estimated sources and uses of funds to be derived from the sale of the Series 2011 Bonds:

### SOURCES:

Principal Amount of Series 2011 Bonds	\$
Less/Plus Net Original Issuance Discount/Premium	

TOTAL SOURCES	\$
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### USES:

Refinance Refunded Bonds	\$
Cost of Issuance <sup>(1)</sup>	

TOTAL USES	\$
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<sup>(1)</sup> Includes \$\_\_\_\_\_ for costs of issuance including Underwriters' discount, legal fees and miscellaneous costs of issuance.

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## DEBT SERVICE SCHEDULE

Year Ending <u>July 1</u>	Series 2004 <u>Bonds</u>	Series 2011 Bonds			Total Debt <u>Service</u>
		<u>Principal</u>	<u>Interest</u>	<u>Total</u>	
2011	\$ 386,573				
2012	387,123				
2013	386,560				
2014	390,170				
2015	387,570				
2016	389,250				
2017					
2018					
2019					
2020					
2021					
TOTALS	<u>\$2,327,246</u>	\$	\$	\$	\$

## DEBT SERVICE COVERAGE

### The City of Winter Park, Florida Ratios of General Obligation Bonds Outstanding Last Ten Years

<u>Fiscal Year</u>	<u>General Obligation Bonds<sup>(1)</sup></u>	<u>Percentage of Actual Taxable Value of Property</u>	<u>Per Capita</u>
2001	\$5,875,000	0.22%	\$ 238
2002	15,880,000	0.52	602
2003	14,845,000	0.44	562
2004	14,355,000	0.30	534
2005	13,630,000	0.27	489
2006	12,885,000	0.23	450
2007	12,120,000	0.18	425
2008	11,330,000	0.15	392
2009	10,520,000	0.14	368
2010	9,685,000	0.13	341

<sup>(1)</sup> Does not include the Series 2011 Bonds.

Source: City of Winter Park, Florida, Comprehensive Annual Financial Reports, Year Ended September 30, 2010.

## **LITIGATION**

There is no pending or, to the knowledge of the City, any threatened litigation against the City of any nature whatsoever which in any way questions or affects the validity of the Series 2011 Bonds, or any proceedings or transactions relating to their issuance, sale, execution, or delivery, or the adoption of the Bond Resolution, or the pledge of the Ad Valorem Taxes, including but not limited to the validity of the the referendum. Neither the creation, organization or existence, nor the title of the present members of the City Commission, or other officers of the City is being contested.

The City experiences claims, litigation, and various legal proceedings which individually are not expected to have a material adverse effect on the operations or financial condition of the City, but may, in the aggregate, have a material impact thereon. In the opinion of the City Attorney, however, the City will either successfully defend such actions or otherwise resolve such matters without any material adverse consequences on the financial condition of the City.

## **LEGAL MATTERS**

Certain legal matters in connection with the issuance of the Series 2011 Bonds are subject to an approving legal opinion of Bryant Miller Olive P.A., Orlando, Florida, Bond Counsel, whose approving opinion (a form of which is attached hereto as "APPENDIX D – Form of Bond Counsel Opinion") will be available at the time of delivery of the Series 2011 Bonds. The actual legal opinion to be delivered may vary from that text if necessary to reflect facts and law on the date of delivery. The opinion will speak only as of its date, and subsequent distribution of it by recirculation of the Official Statement or otherwise shall create no implication that subsequent to the date of the opinion Bond Counsel has reviewed or expresses any opinion concerning any of the matters referenced in the opinion. Bond Counsel's opinions are based on existing law, which is subject to change. Such opinions are further based on factual representations made to Bond Counsel as of the date thereof. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances, including changes in law that may thereafter occur or become effective. Bryant Miller Olive P.A. has not undertaken independently to verify and therefore expresses no opinion as to the completeness, fairness, or sufficiency of any of the information or statements contained in this Official Statement or any exhibits, schedules or attachments hereto, except as to the accuracy of the information in the portions hereof captioned "DESCRIPTION OF THE SERIES 2011 BONDS" (except for the information under the heading "Book-Entry Only System") and "SECURITY FOR THE SERIES 2011 BONDS" (apart from any engineering, financial and statistical data as to which no opinions or beliefs shall be expressed) to the extent such portions purport to summarize certain provisions of the Bond Resolution and the Series 2011 Bonds, and except as to the accuracy of the information under the caption "TAX MATTERS."

Certain legal matters will be passed on for the City by Larry Brown, Esq., Winter Park, Florida, City Attorney and Bryant Miller Olive P.A., Orlando, Florida, Disclosure Counsel.

The legal opinions to be delivered concurrently with the delivery of the Series 2011 Bonds express the professional judgment of the attorneys rendering the opinions regarding the legal issues expressly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of the result indicated by that expression of professional judgment of the transaction on which the opinion is rendered or of the future performance of the parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

## **TAX EXEMPTION**

### **General**

The Internal Revenue Code of 1986, as amended (the "Code") establishes certain requirements which must be met subsequent to the issuance of the Series 2011 Bonds in order that interest on the Series 2011 Bonds be and remain excluded from gross income for purposes of federal income taxation. Non-compliance may cause interest on the Series 2011 Bonds to be included in federal gross income retroactive to the date of issuance of the Series 2011 Bonds, regardless of the date on which such non-compliance occurs or is ascertained. These requirements include, but are not limited to, provisions which prescribe yield and other limits within which the proceeds of the Series 2011 Bonds and the other amounts are to be invested and require that certain investment earnings on the foregoing must be rebated on a periodic basis to the Treasury Department of the United States (the "Treasury"). The City has covenanted in the Bond Resolution to comply with such requirements in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 2011 Bonds.

In the opinion of Bond Counsel, assuming compliance with certain covenants, under existing statutes, regulations, and judicial decisions, interest on the Series 2011 Bonds are excluded from gross income for purposes of federal income taxation and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2011 Bonds is taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax on corporations. The alternative minimum taxable income of a corporation must be increased by 75% of the excess of such corporation's adjusted current earnings over its alternative minimum taxable income (before this adjustment and the alternative tax net operating loss deduction). "Adjusted current earnings" will include interest on the Series 2011 Bonds.

Except as described above, Bond Counsel will express no opinion regarding any other federal income tax consequences resulting from the ownership of, receipt or accrual of interest on or disposition of the Series 2011 Bonds. Prospective purchasers of the Series 2011 Bonds

should be aware that the ownership of Series 2011 Bonds may result in collateral federal income tax consequences, including (i) the denial of a deduction for interest on indebtedness incurred or continued to purchase or carry Series 2011 Bonds; (ii) the reduction of the loss reserve deduction for property and casualty insurance companies by fifteen percent (15%) of certain items, including interest on the Series 2011 Bonds; (iii) the inclusion of interest on the Series 2011 Bonds in earnings of certain foreign corporations doing business in the United States for purposes of branch profits tax; (iv) the inclusion of interest on the Series 2011 Bonds in passive income subject to federal income taxation of certain Subchapter S corporations with Subchapter C earnings and profits at the close of the taxable year; and (v) the inclusion of interest on the Series 2011 Bonds in "modified adjusted gross income" by recipients of certain Social Security and Railroad Retirement benefits for the purposes of determining whether such benefits are included in gross income for federal income tax purposes.

As to questions of fact material to the opinions of Bond Counsel, Bond Counsel will rely upon representations and covenants made on behalf of the City, certificates of appropriate officers and certificates of public officials (including certifications as to the use of proceeds of the Series 2011 Bonds), without undertaking to verify the same by independent investigation.

PURCHASE, OWNERSHIP, SALE OR DISPOSITION OF THE SERIES 2011 BONDS AND THE RECEIPT OR ACCRUAL OF THE INTEREST THEREON MAY HAVE ADVERSE FEDERAL TAX CONSEQUENCES FOR CERTAIN INDIVIDUAL AND CORPORATE HOLDERS OF The Bonds, INCLUDING, BUT NOT LIMITED TO, THE CONSEQUENCES DESCRIBED ABOVE. PROSPECTIVE HOLDERS OF THE SERIES 2011 BONDS SHOULD CONSULT WITH THEIR TAX SPECIALISTS FOR INFORMATION IN THAT REGARD.

#### **Tax Treatment of Original Issue Discount for the Series 2011 Bonds**

Bond Counsel is further of the opinion that the difference between the principal amount of the Series 2011 Bonds maturing July 1, \_\_ through July 1, \_\_ inclusive and on July 1, \_\_ (collectively the "Discount Bonds") and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of Underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excludable from gross income for federal income tax purposes to the same extent as interest on the Series 2011 Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment. Owners of the Discount Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Discount Bonds.



## **Tax Treatment of Bond Premium**

The difference between the principal amount of the Series 2011 Bonds maturing on July 1, 20\_\_ through and including July 1, 20\_\_ (the "Non-Callable Premium Bonds"), and on July 1, 20\_\_ and thereafter (the "Callable Premium Bonds," and collectively with the Non-Callable Premium Bonds, the "Premium Bonds") and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Premium Bonds of the same maturity was sold constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for Federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Non-Callable Premium Bond and to the first call date in the case of the Callable Premium Bonds. For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation in the initial offering to the public at the initial offering price is required to decrease such purchaser's adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Premium Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.

## **Information Reporting and Backup Withholding**

Interest paid on tax-exempt bonds such as the Series 2011 Bonds is subject to information reporting to the Internal Revenue Service in a manner similar to interest paid on taxable obligations. This reporting requirement does not affect the excludability of interest on the Series 2011 Bonds from gross income for federal income tax purposes. However, in conjunction with that information reporting requirement, the Code subjects certain non-corporate owners of Series 2011 Bonds, under certain circumstances, to "backup withholding" at (i) the fourth lowest rate of tax applicable under Section 1(c) of the Code (i.e., a rate applicable to unmarried individuals) for taxable years beginning on or before December 31, 2010; and (ii) the rate of 31% for taxable years beginning after December 31, 2010, with respect to payments on the Series 2011 Bonds and proceeds from the sale of Series 2011 Bonds. Any amount so withheld would be refunded or allowed as a credit against the federal income tax of such owner of Series 2011 Bonds. This withholding generally applies if the owner of Series 2011 Bonds (i) fails to furnish the payor such owner's social security number or other taxpayer identification number ("TIN"), (ii) furnished the payor an incorrect TIN, (iii) fails to properly report interest, dividends, or other "reportable payments" as defined in the Code, or (iv) under certain circumstances, fails to provide the payor or such owner's securities broker with a certified statement, signed under penalty of perjury, that the TIN provided is correct and that such owner is not subject to backup withholding. Prospective purchasers of the Series 2011 Bonds

may also wish to consult with their tax advisors with respect to the need to furnish certain taxpayer information in order to avoid backup withholding.

### **Other Tax Matters Relating to the Bonds**

Purchasers of the Series 2011 Bonds should consult their tax advisors as to the tax consequences to them of owning the Bonds in their particular state or local jurisdiction.

During recent years, legislative proposals have been introduced in Congress, and in some cases enacted, that altered certain federal tax consequences resulting from the ownership of obligations that are similar to the Series 2011 Bonds. In some cases, these proposals have contained provisions that altered these consequences on a retroactive basis. Such alteration of federal tax consequences may have affected the market value of obligations similar to the Series 2011 Bonds. From time to time, legislative proposals are pending which could have an effect on both the federal tax consequences resulting from ownership of the Series 2011 Bonds and their market value. No assurance can be given that legislative proposals will not be enacted that would apply to, or have an adverse effect upon, the Series 2011 Bonds.

### **CONTINUING DISCLOSURE**

The City has covenanted for the benefit of the Series 2011 Bondholders to provide certain financial information and operating data relating to the City and the Series 2011 Bonds within \_\_\_\_ days of the end of the City's fiscal year, beginning with the fiscal year ending September 30, 2011, and to provide notices of the occurrence of certain enumerated material events. The City has agreed to file annual financial information and operating data and the audited financial statements with each entity authorized and approved by the Securities and Exchange Commission (the "SEC") to act as a repository (each a "Repository") for purposes of complying with Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934 (the "Rule"). Effective July 1, 2009, the sole Repository is the Municipal Securities Rulemaking Board. The City has agreed to file notices of certain enumerated material events, when and if they occur, with the Repository.

The specific nature of the financial information, operating data, and of the type of events which trigger a disclosure obligation, and other details of the undertaking are described in "APPENDIX E – Form of Continuing Disclosure Certificate" attached hereto. The Continuing Disclosure Certificate shall be executed by the City upon the issuance of the Series 2011 Bonds. These covenants have been made in order to assist the Underwriters in complying with the continuing disclosure requirements of the Rule.

With respect to the Series 2011 Bonds, no party other than the City is obligated to provide, nor is expected to provide, any continuing disclosure information with respect to the Rule. In the past five years, the City has never failed to comply with any prior agreements to provide continuing disclosure information pursuant to the Rule.

## DISCLOSURE REQUIRED BY FLORIDA BLUE SKY LAW

Pursuant to Section 517.051, Florida Statutes, as amended, no person may directly or indirectly offer or sell securities of the City except by an offering circular containing full and fair disclosure of all defaults as to principal or interest on its obligations since December 31, 1975, as provided by rule of the Office of Financial Regulation within the Florida Financial Services Commission (the "FFSC"). Pursuant to administrative rulemaking, the FFSC has required the disclosure of the amounts and types of defaults, any legal proceedings resulting from such defaults, whether a trustee or receiver has been appointed over the assets of the City, and certain additional financial information, unless the City believes in good faith that such information would not be considered material by a reasonable investor. The City is not and has not been in default on any bond issued since December 31, 1975 that would be considered material by a reasonable investor.

The City has not undertaken an independent review or investigation of securities for which it has served as conduit issuer. The City does not believe that any information about any default on such securities is appropriate and would be considered material by a reasonable investor in the Series 2011 Bonds because the City would not have been obligated to pay the debt service on any such securities except from payments made to it by the private companies on whose behalf such securities were issued and no funds of the City would have been pledged or used to pay such securities or the interest thereon.

## UNDERWRITING

The Series 2011 Bonds are being purchased by \_\_\_\_\_ and \_\_\_\_\_ (collectively, the "Underwriters") at an aggregate purchase price of \$\_\_\_\_\_ (which includes net original issue discount of \$\_\_\_\_\_ and Underwriters' discount of \$\_\_\_\_\_). The Underwriters' obligations are subject to certain conditions precedent described in the Official Notice of Sale which was prepared by the City, and the Underwriters will be obligated to purchase all of the Series 2011 Bonds if any Series 2011 Bonds are purchased. The Series 2011 Bonds may be offered and sold to certain dealers (including dealers depositing such Series 2011 Bonds into investment trusts) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriters.

## RATINGS

Moody's Investors Service ("Moody's") is expected to assign a municipal bond rating of "\_\_\_\_\_" to the Series 2011 Bonds. The ratings reflect only the views of said rating agencies and an explanation of the ratings may be obtained only from said rating agencies. There is no assurance that such ratings will continue for any given period of time or that they will not be lowered or withdrawn entirely by the rating agencies, or any of them, if in their judgment,

circumstances so warrant. A downward change in or withdrawal of any of such ratings, may have an adverse effect on the market price of the Series 2011 Bonds. An explanation of the significance of the ratings can be received from the rating agencies, at the following addresses: Moody's Investors Service, 99 Church Street, New York, New York 10007-2796, and Standard & Poor's Rating Services, 55 Water Street, New York, New York 10041.

### **FINANCIAL ADVISOR**

The City has retained Public Financial Management, Inc., Orlando, Florida, as Financial Advisor in connection with the City's financing plans and with respect to the authorization and issuance of the Series 2011 Bonds. The Financial Advisor is not obligated to undertake and has not undertaken to make an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in the Official Statement. The Financial Advisor did not participate in the underwriting of the Series 2011 Bonds.

### **AUDITED FINANCIAL STATEMENTS**

The audited financial statements of the City as of September 30, 2010 and for the year then ended, included in the attached "APPENDIX B – Comprehensive Annual Financial Report for Fiscal Year Ended September 30, 2010," have been audited by James Moore & Co., P.L., independent auditors, as stated in their report appearing therein. The City's auditor has consented to the inclusion of the aforementioned report in this Official Statement.

### **ENFORCEABILITY OF REMEDIES**

The remedies available to the owners of the Series 2011 Bonds upon an event of default under the Bond Resolution are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including specifically the federal bankruptcy code, the remedies specified by the Bond Resolution, the Series 2011 Bonds may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2011 Bonds, including Bond Counsel's approving opinion, will be qualified, as to the enforceability of the remedies provided in the various legal instruments, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors enacted before or after such delivery. See "APPENDIX C – Form of Bond Resolution" for a description of events of default and remedies

### **CONTINGENT FEES**

The City has retained Bond Counsel and Disclosure Counsel with respect to the authorization, sale, execution and delivery of the Series 2011 Bonds. Payment of the fees of such professionals and an underwriting discount to the Underwriter are contingent upon the issuance of the Series 2011 Bonds.

## ACCURACY AND COMPLETENESS OF OFFICIAL STATEMENT

The references, excerpts, and summaries of all documents, statutes, and information concerning the City and certain reports and statistical data referred to herein do not purport to be complete, comprehensive and definitive and each such summary and reference is qualified in its entirety by reference to each such document for full and complete statements of all matters of fact relating to the Series 2011 Bonds, the security for the payment of the Series 2011 Bonds and the rights and obligations of the owners thereof and to each such statute, report or instrument. Copies of such documents may be obtained from either the office of the Clerk of the City Commission, Cynthia S. Bonham, City Clerk, 401 South Park Avenue, Winter Park, Florida 32789, telephone: (407) 599-3277.

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Series 2011 Bonds.

The appendices attached hereto are integral parts of this Official Statement and must be read in their entirety together with all foregoing statements.

[Remainder of page intentionally left blank]

## **AUTHORIZATION OF AND CERTIFICATION CONCERNING OFFICIAL STATEMENT**

The execution and delivery of this Official Statement has been duly authorized and approved by the City. At the time of delivery of the Series 2011 Bonds, the City will furnish a certificate to the effect that nothing has come to its attention which would lead it to believe that the Official Statement (other than DTC, the book-entry only system of registration and the information contained under the caption "TAX MATTERS" as to which no opinion shall be expressed), as of its date and as of the date of delivery of the Series 2011 Bonds, contains an untrue statement of a material fact or omits to state a material fact which should be included therein for the purposes for which the Official Statement is intended to be used, or which is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

### **CITY OF WINTER PARK**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Manager

## **APPENDIX A**

### **GENERAL INFORMATION CITY OF WINTER PARK, FLORIDA**

**APPENDIX B**

**COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED  
SEPTEMBER 30, 2010**



## **APPENDIX C**

### **FORM OF THE BOND RESOLUTION**

## **APPENDIX D**

### **FORM OF BOND COUNSEL OPINION**

**APPENDIX E**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

**FORM OF  
ESCROW DEPOSIT AGREEMENT**

THIS ESCROW DEPOSIT AGREEMENT, dated as of \_\_\_\_\_, 2011, by and between the CITY OF WINTER PARK, FLORIDA (the "Issuer"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., Jacksonville, Florida as Escrow Holder, and its successors and assigns (the "Escrow Holder");

**WITNESSETH:**

WHEREAS, the Issuer previously issued its General Obligation Bonds, Series 2001, certain of which remain Outstanding immediately prior to execution and delivery of this Escrow Deposit Agreement (the "2001 Bonds"); and

WHEREAS, the Issuer now desires to refund all of the 2001 Bonds (the "Refunded Bonds"); and

WHEREAS, the execution of this Escrow Deposit Agreement and full performance of the provisions hereof shall defease and discharge the Issuer's obligations relating to the Refunded Bonds; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Issuer and the Escrow Holder agree as follows:

SECTION 1. Definitions. As used herein, the following terms mean:

- (a) "Agreement" shall mean this Escrow Deposit Agreement.
- (b) "Bonds" shall mean the \$\_\_\_\_\_ City of Winter Park, Florida General Obligation Refunding Bonds, Series 2011.
- (c) "Bond Counsel" shall mean Bryant Miller Olive P.A., or any other law firm nationally-recognized in the area of public finance.
- (d) "Bond Resolution" shall mean Resolution No. 1730 adopted by the Commission on September 12, 2000, as amended.
- (e) "Escrow Account" shall mean the account hereby created and entitled Escrow Account established and held by the Escrow Holder pursuant to this Agreement in which cash and investments will be held for payment of the principal, interest, and redemption premium, if any, on the Refunded Bonds.

(f) "Federal Securities" shall mean securities of the type which are described in Section 18 of the Bond Resolution and described in Schedule B attached hereto.

(g) "Issuer" shall mean the City of Winter Park, Florida, and its successors and assigns.

(h) "Refunded Bonds" shall have the meaning ascribed above.

(i) "Total Debt Service for the Refunded Bonds" shall mean the sum of the principal of, redemption premium, if any, and interest remaining unpaid with respect to the Refunded Bonds in accordance with Schedule A attached hereto assuming the Refunded Bonds are called for early redemption on \_\_\_\_\_, 2011.

SECTION 2. Deposit of Funds. The Issuer hereby deposits \$\_\_\_\_\_ with the Escrow Holder for deposit into the Escrow Account, in immediately available funds, which funds the Escrow Holder acknowledges receipt of, to be held in irrevocable escrow by the Escrow Holder separate and apart from other funds of the Escrow Holder and applied solely as provided in this Agreement. An amount equal to \$\_\_\_\_\_ of such funds are being derived from proceeds of the Bonds. An amount equal to \$\_\_\_\_\_ of such funds are being derived from the Sinking Fund which secured the Refunded Bonds, (as such term is defined in the Bond Resolution). The Issuer represents that the Federal Securities, the interest to be earned thereon, and the cash deposited to the Escrow Account (i) are at least equal to the Total Debt Service for the Refunded Bonds as of the date of such deposit, and (ii) are sufficient to pay principal, interest and redemption premium, if any, on the Refunded Bonds as they become due and payable in accordance with Schedule A attached hereto.

SECTION 3. Use and Investment of Funds. The Escrow Holder acknowledges receipt of the sum described in Section 2 and agrees:

(a) to hold the funds and investments purchased pursuant to this Agreement in irrevocable escrow during the term of this Agreement for the sole benefit of the holders of the Refunded Bonds;

(b) to immediately invest \$\_\_\_\_\_ of such funds derived from the proceeds of the Bonds and other legally available funds of the Issuer in the Federal Securities set forth on Schedule B attached hereto and to hold such securities and \$\_\_\_\_\_ of such funds in cash in accordance with the terms of this Agreement;

(c) in the event the securities described on Schedule B cannot be purchased, substitute securities may be purchased upon the written direction of the Issuer but only upon receipt of verification from an independent certified public accountant that the Federal Securities, the interest to be earned thereon, and the cash deposited in the Escrow Account will not be less than the Total Debt Service for the Refunded Bonds, and only upon receipt of an

opinion of Bond Counsel that such securities constitute Federal Securities for purposes of this Agreement; and

(d) there will be no investment or reinvestment of funds except as set forth in this Section 3 and except as set forth in Section 5.

#### SECTION 4. Payment of Bonds and Expenses.

(a) Refunded Bonds. On the dates and in the amounts set forth on Schedule A, the Escrow Holder shall transfer to The Bank of New York Mellon Trust Company, N.A., the Paying Agent for the Refunded Bonds (the "Paying Agent"), in immediately available funds solely from amounts available in the Escrow Account, a sum sufficient to pay the principal of, interest on and redemption premium, if applicable, on the Refunded Bonds, as shown on Schedule A.

(b) Expenses. The Issuer shall pay the fees of the Escrow Holder described as set forth in Section 11 hereof) and the Escrow Holders reasonable out-of-pocket expenses (including counsel fees and expenses) incurred in connection with the preparation, negotiation, administration or enforcement of this Agreement..

(c) Surplus. After making the payments from the Escrow Account described in Subsections 4(a) and (b) above, the Escrow Holder shall retain in the Escrow Account any remaining cash in the Escrow Account in excess of the Total Debt Service for the Refunded Bonds until the termination of this Agreement pursuant to the terms of Section 12 hereof, and shall then pay any remaining funds to the Issuer to be used to pay debt service on the Bonds on the next interest payment date.

(d) Priority of Payments. The holders of the Refunded Bonds shall have an express first priority security interest in the funds and Federal Securities in the Escrow Account until such funds and Federal Securities are used and applied as provided in this Agreement.

#### SECTION 5. Reinvestment.

(a) Except as provided in Section 3 and in this Section 5, the Escrow Holder shall have no power or duty to invest any funds held under this Agreement or to sell, transfer or otherwise dispose of or make substitutions of the Federal Securities held hereunder.

(b) At the written direction of the Issuer and upon compliance with the conditions hereinafter stated, the Escrow Holder shall sell, transfer or otherwise dispose of any of the Federal Securities acquired hereunder and shall substitute other Federal Securities and reinvest any excess receipts in Federal Securities. The Issuer will not request the Escrow Holder to exercise any of the powers described in the preceding sentence in any manner which will cause interest on the Bonds to be included in the gross income of the holders thereof for purposes of

Federal income taxation. The transactions may be effected only if (i) an independent certified public accountant selected by the Issuer shall certify or opine in writing to the Issuer and the Escrow Holder that Federal Securities, interest to be earned thereon, and cash remaining on hand after the transactions are completed will, assuming no reinvestment or any earnings, be not less than the Total Debt Service for the Refunded Bonds, and that reinvestment in such Federal Securities will not postpone the anticipated transfer of moneys from the Escrow Account to the Paying Agent pursuant to Section 4(a) hereof, and (ii) the Escrow Holder shall receive an opinion from a nationally recognized bond counsel acceptable to the Issuer to the effect that the transactions, in and by themselves, will not cause interest on such Bonds or the Refunded Bonds to be included in the gross income of the holders thereof for purposes of Federal income taxation and such substitution is in compliance with this Agreement. Subsection 4(c) above notwithstanding, cash in excess of the Total Debt Service for the Refunded Bonds caused by substitution of Federal Securities shall, as soon as practical, be paid to the Issuer. Notwithstanding any provision of this Agreement to the contrary, no forward purchase agreement relating to the future reinvestment of cash held hereunder shall be executed unless the following condition is met: to the extent either Moody's Investors Service, Inc., Fitch Ratings, and/or Standard & Poor's Ratings Services have an outstanding rating on the Refunded Bonds, at least one of such rating agencies must give written confirmation that it will not lower or withdraw the rating as a result of the Issuer's execution of such forward purchase agreement. In the event of any inconsistency between the terms and conditions of such forward purchase agreement and this Agreement, the terms and conditions of this Agreement shall control.

SECTION 6. Redemption or Acceleration of Maturity. The Issuer elects to redeem, pursuant to Section 12 of the Bond Resolution, all of the Refunded Bonds maturing on July 1, 2012 and thereafter on July 1, 2011, as specified in Schedule A hereof, and simultaneously herewith has irrevocably instructed the paying agent for the Refunded Bonds to mail to the registered owners of such Refunded Bonds which are to be redeemed prior to their maturity, not less than 30 days before their Redemption Date, a notice of redemption in accordance with the requirements set forth in Section 12 of the Bond Resolution and substantially in the form attached hereto as Schedule C. The Issuer will not accelerate the maturity of, or exercise any option to redeem before maturity, any Refunded Bonds, except as set forth on Schedule A attached hereto.

SECTION 7. Responsibilities of Escrow Holder. The Escrow Holder and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Account, the acceptance of the funds deposited therein, the purchase of the Federal Securities, the retention of the Federal Securities or the proceeds thereof or for any payment, transfer or other application of moneys or securities by the Escrow Holder in accordance with the provisions of this Agreement or by reason of any non-negligent or non-willful act, omission or error of the Escrow Holder made in good faith in the conduct of its duties. The Escrow Holder shall, however, be responsible for its negligent or willful failure to

comply with its duties required hereunder, and its negligent or willful acts, omissions or errors hereunder. The duties and obligations of the Escrow Holder shall be determined solely by the express provisions of this Agreement and no implied duties or covenants shall be read into this Agreement against the Escrow Holder. The Escrow Holder may consult with counsel, who may or may not be counsel to the Issuer, at the Issuer's expense, and in reliance upon the opinion of such counsel, shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Holder shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the Issuer.

The Escrow Holder may act through its agents and attorneys appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any such person so appointed. Any payment obligation of the Escrow Holder hereunder shall be paid from, and is limited to funds available under this Agreement; the Escrow Holder shall not be required to expend its own funds for the performance of its duties hereunder. Notwithstanding any provision herein to the contrary, in no event shall the Escrow Holder be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Holder has been advised of the likelihood of such loss or damage and regardless of the form of action. The Escrow Holder shall not be responsible or liable for any failure or delay in the performance of its obligation under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Holder shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

SECTION 8. Resignation of Escrow Holder. The Escrow Holder may resign and thereby become discharged from the duties and obligations hereby created, by notice in writing given to the Issuer, any rating agency then providing a rating on either the Refunded Bonds or the Bonds, and the Paying Agent for the Refunded Bonds not less than sixty (60) days before such resignation shall take effect. Such resignation shall not take effect until the appointment of a new Escrow Holder hereunder.

SECTION 9. Removal of Escrow Holder.

(a) The Escrow Holder may be removed at any time by an instrument or concurrent instruments in writing, executed by the holders of not less than fifty-one percentum (51%) in aggregate principal amount of the Refunded Bonds then Outstanding, such instruments to be filed with the Issuer, and notice in writing given by such holders to all holders of the Bonds. A



photographic copy of any instrument filed with the Issuer under the provisions of this paragraph shall be delivered by the Issuer to the Escrow Holder.

(b) The Escrow Holder may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Agreement with respect to the duties and obligations of the Escrow Holder by any court of competent jurisdiction upon the application of the Issuer or the holders of not less than five percentum (5%) in aggregate principal amount of the Bonds then Outstanding, or the holders of not less than five percentum (5%) in aggregate principal amount of the Refunded Bonds then Outstanding.

(c) The Escrow Holder may not be removed until a successor Escrow Holder has been appointed in the manner set forth herein.

#### SECTION 10. Successor Escrow Holder.

(a) If, at any time hereafter, the Escrow Holder shall resign, be removed, be dissolved or otherwise become incapable of acting, or shall be taken over by any governmental official, agency, department or board, the position of Escrow Holder shall thereupon become vacant. If the position of Escrow Holder shall become vacant for any of the foregoing reasons or for any other reason, the Issuer shall immediately appoint an Escrow Holder to fill such vacancy and, upon such appointment, all assets held hereunder shall be transferred to such successor. The Issuer shall mail a notice of any such appointment made by it to the holders of the Refunded Bonds within thirty (30) days after such appointment.

(b) At any time within one year after such vacancy shall have occurred, the holders of a majority in principal amount of the Bonds then Outstanding or a majority in principal amount of the Refunded Bonds then Outstanding, by an instrument or concurrent instruments in writing, executed by either group of such Bondholders and filed with the governing body of the Issuer, may appoint a successor Escrow Holder, which shall supersede any Escrow Holder theretofore appointed by the Issuer. Photographic copies of each such instrument shall be delivered promptly by the Issuer, to the predecessor Escrow Holder and to the Escrow Holder so appointed by such Bondholders. In the case of conflicting appointments made by such Bondholders under this paragraph, the first effective appointment made during the one year period shall govern.

(c) If no appointment of a successor Escrow Holder shall be made pursuant to the foregoing provisions of this Section, the holder of any Refunded Bonds then Outstanding, or any retiring Escrow Holder, may apply to any court of competent jurisdiction to appoint a successor Escrow Holder. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Escrow Holder.

(d) Any corporation or association into which the Escrow Holder may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Escrow Holder hereunder and vested with all the trust, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any parties hereto, anything herein to the contrary notwithstanding, provided such successor shall have reported total capital and surplus in excess of \$15,000,000, provided that such successor Escrow Holder assumes in writing all the trust, duties and responsibilities of the Escrow Holder hereunder.

SECTION 11. Payment to Escrow Holder; Indemnification. The Escrow Holder hereby acknowledges that it has agreed to accept \$\_\_\_\_\_ as compensation under the Agreement for services to be performed by the Escrow Holder pursuant to this Agreement. The Escrow Holder shall not be compensated from amounts on deposit in the Escrow Account, and the Escrow Holder shall have no lien or claim against funds in the Escrow Account for payment of obligations due it under this Section.

To the extent permitted by law, the Issuer shall indemnify and exonerate, save and hold harmless the Escrow Holder from and against any and all claims, demands, expenses (including counsel fees and expenses) and liabilities of any and every nature which the Escrow Holder may sustain or incur or which may be asserted against the Escrow Holder as a result of any action taken or omitted by the Escrow Holder hereunder without bad faith, negligence or willful misconduct. At any time, the Escrow Holder may apply to the Issuer for written instructions with respect to any matter arising under this Agreement and shall be fully protected in acting in accordance with such instructions. In addition, the Escrow Holder may, as reasonably necessary, consult counsel to the Issuer or its own counsel, at the expense of the Issuer, and shall be fully protected with respect to any action taken or omitted in good faith in accordance with such advice or opinion of counsel to the Issuer or its own counsel.

SECTION 12. Term. This Agreement shall commence upon its execution and delivery and shall terminate when the Refunded Bonds have been paid and discharged in accordance with the proceedings authorizing the Refunded Bonds, except as provided in Section 7.

SECTION 13. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the Issuer or the Escrow Holder to be performed should be determined by a court of competent jurisdiction to be contrary to law, notice of such event shall be sent to Moody's Investors Service, Inc., Fitch Ratings and Standard & Poor's Ratings Services (but only to the extent such agencies have a rating outstanding on any of the Refunded Bonds), and while such covenant or agreements herein contained shall be null and void, they shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 14. Amendments to this Agreement. This Agreement is made for the benefit of the Issuer and the holders from time to time of the Refunded Bonds and the Bonds and it shall not be repealed, revoked, altered or amended in whole or in part without the written consent of all holders of Refunded Bonds, the Escrow Holder and the Issuer; provided, however, that the Issuer and the Escrow Holder may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant to, or confer upon, the Escrow Holder, for the benefit of the holders of the Bonds and the Refunded Bonds any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Holder; and
- (c) to subject to this Agreement additional funds, securities or properties.

The Escrow Holder shall, at its option, be entitled to request, at the Issuer's expense, and rely exclusively upon an opinion of nationally recognized attorneys on the subject of municipal bonds acceptable to the Issuer with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section. Prior written notice of such amendments, together with proposed copies of such amendments, shall be provided to Moody's Investors Service, Inc., Fitch Ratings, and Standard & Poor's Ratings Services (but only to the extent such agencies have a rating outstanding on any of the Refunded Bonds).

SECTION 15. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

SECTION 16. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Florida.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested as of the date first above written.

CITY OF WINTER PARK, FLORIDA

(SEAL)

By: \_\_\_\_\_  
Name: Kenneth W. Bradley  
Title: Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Cynthia S. Bonham  
Title: City Clerk

[Signature page to Escrow Deposit Agreement between  
City of Winter Park, Florida and The Bank of New York Mellon Trust Company, N.A.]

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Escrow  
Holder

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature page to Escrow Deposit Agreement between  
City of Winter Park, Florida and The Bank of New York Mellon Trust Company, N.A.]

SCHEDULE A

TOTAL DEBT SERVICE  
FOR THE REFUNDED BONDS

<u>Date</u>	Redeemed <u>Principal</u>	<u>Interest</u>	Total Debt <u>Service</u>
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SCHEDULE B

SCHEDULE OF FEDERAL SECURITIES  
TO BE PURCHASED ON \_\_\_\_\_, 2011

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Type</u>
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SCHEDULE C

FORM OF REDEMPTION NOTICE



**FORM OF BOND REGISTRAR  
AND PAYING AGENT AGREEMENT**

THIS BOND REGISTRAR AND PAYING AGENT AGREEMENT (the "Agreement"), dated \_\_\_\_\_, 2011, by and between the CITY OF WINTER PARK, FLORIDA (the "Issuer") and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association having its principal place of business in Jacksonville, Florida (the "Bank");

W I T N E S S E T H:

WHEREAS, the Issuer, by the Resolution (as hereinafter defined), has designated the Bank as Bond Registrar and Paying Agent for its \$\_\_\_\_\_ General Obligation Refunding Bonds, Series 2011 (the "Series 2011 Bonds"); and

WHEREAS, the Issuer and the Bank desire to set forth the Bank's duties as Bond Registrar and Paying Agent and the compensation to be paid the Bank for its services.

NOW, THEREFORE, it is agreed by the parties hereto as follows:

Section 1. Duties. The Bank agrees to serve as Bond Registrar and Paying Agent for the Series 2011 Bonds and to perform the duties of Bond Registrar and Paying Agent as specified in or contemplated by an ordinance duly enacted by the City Commission of the Issuer (the "City Commission") on \_\_\_\_\_, 2011, and a resolution adopted by the City Commission on \_\_\_\_\_, 2011, as amended and supplemented from time to time (the "Resolution").

Section 2. Deposit of Funds. The Issuer shall deposit or cause to be deposited with the Bank sufficient funds from the funds pledged for the payment of the Series 2011 Bonds under the Resolution to pay when due and payable the principal of and interest on the Series 2011 Bonds.

Section 3. Use of Funds. The Bank shall use the funds received from the Issuer pursuant to Section 2 of this Agreement to pay the principal of and interest on the Series 2011 Bonds in accordance with the Resolution.

The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Series 2011 Bonds in the manner disclosed in the closing memorandum as prepared by the Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum acknowledged by the financial advisor or the Issuer as the final closing memorandum. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

Section 4. Statements. The Bank shall prepare and shall send to the Issuer written statements of account relating to all transactions effected by the Bank pursuant to this Agreement on a semi-annual basis.

Section 5. Obligation to Act. The Bank shall be obligated to act only in accordance with the Resolution and any written instructions received in accordance therewith; provided, however, that the Bank is authorized hereby to comply with any orders, judgments or decrees of any court with or without jurisdiction and shall not be liable as a result of its compliance with the same.

Section 6. Reliance by Bank. The Bank may rely absolutely upon the genuineness and authorization of the signature and purported signature of any party upon any instruction, notice, release, request, affidavit or other document delivered to it pursuant of the Resolution.

Section 7. Counsel; Limited Liability. The Bank may consult with counsel of its own choice and shall have sole and complete authorization and protection for any action taken or suffered by it under the Resolution in good faith and in accordance with the opinion of such counsel. The Bank shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct or negligence.

Section 8. Fees and Expenses. In consideration of the services rendered by the Bank as Bond Registrar and Paying Agent, the Issuer agrees to and shall pay to the Bank its proper fees and all expenses, charges, attorneys' fees and other disbursements incurred by it or its attorneys, agents and employees in and about the performance of its powers and duties as Bond Registrar and Paying Agent, as set forth in the attached Exhibit A. The Bank shall not be obligated to allow and credit interest upon any moneys in respect of principal or interest due in respect of the Series 2011 Bonds, which it shall at any time receive under any of the provisions of the Resolution or this Agreement.

To the extent permitted by law, the Issuer shall pay to the Bank for any extraordinary services or expenses performed or incurred by the Bank in connection with its duties under this Agreement (including reasonable fees, costs and expenses of counsel, auditors or other experts), if notified in writing prior to the performance of those services or the incurring of those expenses.

Section 9. Furnishing Information; Authorization. The Bank shall, at all times, when requested to do so by the Issuer in writing or by facsimile, furnish full and complete information pertaining to its functions as the Bond Registrar and Paying Agent with regard to the Series 2011 Bonds, and shall without further authorization, execute all necessary and proper deposit slips, checks, certificates and other documents with reference thereto.

Section 10. Cancellation; Termination. Either of the parties hereto, at its option, may cancel this Agreement after giving thirty (30) days written notice to the other party of its

intention to cancel, and this Agreement may be canceled at any time by mutual consent of the parties hereto. This Agreement shall terminate without further action upon final payment of the Series 2011 Bonds and the interest appertaining thereto.

If the 30-day notice period expires and no successor has been appointed, the Bank, at the expense of the Issuer, has the right to petition a court of competent jurisdiction to appoint a successor under this Agreement. Furthermore, the Bank and the Issuer mutually agree that the effective date of any early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Series 2011 Bonds.

Section 11. Surrender of Funds; Registration Records; Notification of Series 2011 Bondholders. In the event of a cancellation of this Agreement, the Issuer shall deliver any proper and necessary releases to the Bank upon demand and the Bank shall, upon demand, pay over the funds on deposit with the Bank as Bond Registrar and Paying Agent in connection with the Series 2011 Bonds and surrender all registration books and related records, and the Issuer may appoint and name a successor to act as Bond Registrar and Paying Agent for the Series 2011 Bonds. The Issuer shall, in such event, at its expense should it cancel this Agreement, notify all holders of the Series 2011 Bonds of the appointment and name of the successor, by providing notice by mail, postage prepaid, to all Series 2011 Bondholders at their addresses as they appear on the registration books of the Bond Registrar and Paying Agent for the Series 2011 Bonds. If the Bank shall cancel this Agreement, such expense shall be borne by the Bank.

Section 12. Nonassignability. This Agreement shall not be assigned by either party without the written consent of the other party.

Section 13. Modification. No modification of this Agreement shall be valid unless made by a written agreement, executed and approved by the parties hereto.

Section 14. Severability. Should any action or part of any section of this Agreement be declared void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other section or other part of any section of this Agreement.

Section 15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Section 16. Merger or Consolidation of the Bank. Any corporation into which the Bank may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Bank shall be a party, shall be the successor Bond Registrar and Paying Agent under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto.

Section 17. Counterparts. This Agreement may be executed in several counterparts, all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their official seals to be hereunto affixed and attested as of the date first above written.

(SEAL)

CITY OF WINTER PARK, FLORIDA

By: \_\_\_\_\_  
Name: Kenneth W. Bradley  
Title: Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Cynthia S. Bonham  
Title: City Clerk

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.

(SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT A**

Fee for services as Bond Registrar and Paying Agent will be \$\_\_\_\_\_ payable annually in advance for services to be performed under the Bond Registrar and Paying Agent Agreement.

Out-of-pocket expenses will be reimbursed at cost.

## CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of Winter Park, Florida (the "Issuer") in connection with the issuance of its \$\_\_\_\_\_ General Obligation Refunding Bonds, Series 2011 (the "Bonds"). The Bonds are being issued pursuant to Ordinance No. \_\_\_\_ adopted by the City Commission (the "City Commission") of the Issuer on May 9, 2011, and Resolution No. \_\_\_\_ adopted by the City Commission on May 9, 2011, as amended and supplemented from time to time (the "Resolution").

SECTION 1. PURPOSE OF THE DISCLOSURE CERTIFICATE. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12.

SECTION 2. DEFINITIONS. In addition to the definitions set forth in the Resolution which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean the Issuer, or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"Event of Bankruptcy" shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"Obligated Person" shall mean any person, including the Issuer, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

"Participating Underwriters" shall mean the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Repository" shall mean each entity authorized and approved by the Securities and Exchange Commission from time to time to act as a repository for purposes of complying with the Rule. The Repositories currently approved by the Securities and Exchange Commission may be found by visiting the Securities and Exchange Commission's website at <http://www.sec.gov/info/municipal/nrmsir.htm>. As of the date hereof, the Repository recognized by the Securities and Exchange Commission for such purpose is the Municipal Securities Rulemaking Board, which currently accepts continuing disclosure submissions through its Electronic Municipal Market Access ("EMMA") web portal at "http://emma.msrb.org."

"Rule" shall mean the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of Florida.

### SECTION 3. PROVISION OF ANNUAL REPORTS.

(a) The Issuer shall, or shall cause the Dissemination Agent to provide to any Repository in electronic format as prescribed by such Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate for each fiscal year ending on or after September 30, 2011, not later than the following May 1. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date provided, further, in such event unaudited financial statements are required to be delivered as part of the Annual Report in accordance with Section 4(a) below. If the Issuer's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) Not later than fifteen (15) Business Days prior to the date set forth in (a) above, the Issuer shall provide the Annual Report to the Dissemination Agent (if other than the Issuer). If the Issuer is unable to provide to any Repository an Annual Report as required in subsection (a), the Issuer shall send a notice to any Repository, in electronic format as prescribed by such Repository in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of any Repository; and

(ii) if the Dissemination Agent is other than the Issuer, file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing any Repository to which it was provided.



SECTION 4. CONTENT OF ANNUAL REPORTS. The Issuer's Annual Report shall contain or include by reference the following:

(a) the audited financial statements of the Issuer for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement dated May \_\_, 2011 (the "Official Statement"), and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) updates of the financial and operating data set forth in the Official Statement, including, but not limited to:

1. Direct and overlapping property tax rates;
2. Assessed and estimated actual value of taxable property;
3. Property tax levies and collections;
4. Principal property tax payers;

(c) Description of any material litigation which would have been disclosed in the Official Statement if such litigation had occurred and been ongoing at the time the Official Statement is dated.

(d) Any other financial information or operating data of the type included in the Official Statement which the Issuer determines would be material to a holder or prospective holders of the Certificates.

The information provided under Section 4(b) may be included by specific reference to documents, including official statements of debt issues of the Issuer or related public entities, which are available to the public on the Repository's Internet Web site or filed with the Securities and Exchange Commission.

The Issuer reserves the right to modify from time to time the specific types of information provided in its Annual Report or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Issuer; provided that the Issuer agrees that any such modification will be done in a manner consistent with the Rule.

#### SECTION 5. REPORTING OF SIGNIFICANT EVENTS.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds. Such notice shall be given in a timely manner not in excess of ten (10) business days after the occurrence of the event, with the exception of the event described in number 15 below, which notice shall be given in a timely manner:

1. principal and interest payment delinquencies;

2. non-payment related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. modifications to rights of the holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the Bonds, if material;
11. ratings changes;
12. an Event of Bankruptcy or similar event of an Obligated Person;
13. the consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. appointment of a successor or additional trustee or the change of name of a trustee, if material; and
15. notice of any failure on the part of the Issuer to meet the requirements of Section 3 hereof.

(b) The notice required to be given in paragraph 5(a) above shall be filed with any Repository, in electronic format as prescribed by such Repository.

SECTION 6. IDENTIFYING INFORMATION. In accordance with the Rule, all disclosure filings submitted in pursuant to this Disclosure Certificate to any Repository must be accompanied by identifying information as prescribed by the Repository. Such information may include, but not be limited to:

- (a) the category of information being provided;
- (b) the period covered by any annual financial information, financial statement or other financial information or operation data;
- (c) the issues or specific securities to which such documents are related (including CUSIPs, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate);
- (d) the name of any Obligated Person other than the Issuer;
- (e) the name and date of the document being submitted; and
- (f) contact information for the submitter.

SECTION 7. TERMINATION OF REPORTING OBLIGATION. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or if the Rule is repealed or no longer in effect. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event under Section 5.

SECTION 8. DISSEMINATION AGENT. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Certificate. The initial Dissemination Agent shall be the Issuer.

SECTION 9. AMENDMENT; WAIVER. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

- (a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Issuer, or the type of business conducted;
- (b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and
- (c) The amendment or waiver either (i) is approved by the holders or Beneficial Owners of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of holders or Beneficial Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Bonds.

Notwithstanding the foregoing, the Issuer shall have the right to adopt amendments to this Disclosure Certificate necessary to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 10. ADDITIONAL INFORMATION. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. DEFAULT. The continuing disclosure obligations of the Issuer set forth herein constitute a contract with the holders of the Bonds. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate; provided, however, the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with the provisions of this Disclosure Certificate shall be an action to compel performance. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution.

SECTION 12. DUTIES, IMMUNITIES AND LIABILITIES OF DISSEMINATION AGENT. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 13. BENEFICIARIES. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriters and holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated as of June \_\_\_\_\_, 2011.

CITY OF WINTER PARK, FLORIDA

[SEAL]

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Winter Park, Florida

Name of Bond Issue: General Obligation Refunding Bonds, Series 2011

Date of Issuance: June \_\_, 2011

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4(b) of the Continuing Disclosure Certificate dated as of June \_\_, 2011. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

CITY OF WINTER PARK, FLORIDA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FORM OF  
NOTICE OF REDEMPTION  
CITY OF WINTER PARK, FLORIDA  
GENERAL OBLIGATION BONDS, SERIES 2001**

The City of Winter Park, Florida (the "City") issued its General Obligation Bonds, Series 2001 (the "Bonds") on November 15, 2001 pursuant to Resolution No. 1730 adopted by the City Commission on September 12, 2000, as amended and supplemented from time to time (collectively, the "Resolution"). All capitalized undefined terms contained herein shall have the meaning ascribed thereto in the Resolution.

NOTICE IS HEREBY GIVEN for and on behalf of the City, that all of the outstanding Bonds which mature on and after July 1, 2012 (as more particularly described below, the "Redeemed Bonds"), have been irrevocably called for redemption on **[July 1, 2011]** (the "Redemption Date") at the Redemption Price listed below:

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Redemption</u> <u>Price</u>	<u>CUSIP No.*</u>
2012	\$575,000	4.00%	100%	975893BP2
2013	600,000	4.125	100	975893BQ0
2014	625,000	4.25	100	975893BR8
2015	650,000	5.00	100	975893BS6
2016	680,000	4.50	100	975893BT4
2018	1,460,000	5.25	100	975893BV9
2021	2,480,000	4.75	100	975893BY3

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\* The CUSIP numbers are included solely for the convenience of the Bondholders. Neither the City nor the Paying Agent shall be responsible for the selection or use of the CUSIP numbers, nor is any representation made as to its correctness on the securities or as indicated in any redemption notice.

Interest will be paid in the usual manner. On the Redemption Date, the Redemption Price will become due and payable and interest of the Refunded Bonds shall cease to accrue from and after the Redemption Date. The Refunded Bonds shall be surrendered to Paying Agent, at the following address:

The Bank of New York Mellon Trust Company, N.A.  
Towermarc Plaza  
10161 Centurion Parkway  
Jacksonville, Florida 75201

Dated this \_\_\_\_ day of June, 2011.

CITY OF WINTER PARK, FLORIDA

#### IMPORTANT TAX INFORMATION

Under the Interest and Dividend Tax Compliance Act of 1983, we may be required to withhold 31% of principal payments (including premium, if any) made to holders who fail to provide us with, and certify under penalties of perjury, a correct taxpayer identifying number (employer identification number or social security number as appropriate) or an exemption certificate on or before the date the securities are presented for payment. Those holders who are required to provide their correct taxpayer identification number on Internal Revenue Service Form W-9 and who fail to do so may be subject to a penalty. Please therefore provide the appropriate certification when presenting your securities for payment.



SUMMARY NOTICE OF SALE

\$\_\_\_\_\_\*

**City of Winter Park, Florida**  
**General Obligation Refunding Bonds, Series 2011**

Bids for the above captioned bonds will be received by the City of Winter Park, Florida, (the "City") via Parity until 11:00 A.M. (the "Submittal Deadline"), Winter Park time, \_\_\_\_\_, \_\_\_\_\_, **2011** or on such other date as may be established by the City Manager or Finance Director of the City or their respective designee no less than ten (10) days after the date of publication of this notice and communicated by Thomson Municipal Market Monitor not less than twenty (20) hours prior to the time bids are received (the "Bid Date").

Such bids are to be opened in public as soon as practical after the Submittal Deadline on said day for the purchase of the City of Winter Park, Florida, General Obligation Refunding Bonds, Series 2011 (the "Series 2011 Bonds"). The Series 2011 Bonds will mature as specified in the Official Notice of Bond Sale. Proceeds of the Series 2011 Bonds shall be used for the purpose of (i) refinancing previously issued City of Winter Park, Florida General Obligation Bonds, Series 2001, and (ii) paying the cost and expenses related to the issuance of the Series 2011 Bonds.

The approving opinion of Bryant Miller Olive P.A., Orlando, Florida, Bond Counsel, will be furnished to the successful bidder at the expense of the City.

Electronic copies of the Preliminary Official Statement and the Official Notice of Bond Sale relating to the Series 2011 Bonds may be obtained at the website address [www.idealprospectus.com](http://www.idealprospectus.com). Printed, bound copies of the Preliminary Official Statement will be available from the City's financial advisor, Public Financial Management, 300 South Orange Avenue, Suite 1170, Orlando, FL 32801, telephone 407-648-2208.

**City of Winter Park, Florida**  
**Charles W. Hamil, III, CPA**  
**Finance Director**

Dated: \_\_\_\_\_, 2011

\*Preliminary, subject to change.

**OFFICIAL NOTICE OF SALE**

\$ \_\_\_\_\_ \*

**CITY OF WINTER PARK, FLORIDA**

**GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011**

**The City of Winter Park, Florida General Obligation Refunding Bonds, Series 2011 (the “2011 Bonds”) are being offered for sale in accordance with this Official Notice of Sale. Notice is hereby given that bids will be received by City of Winter Park, Florida (the “Issuer”) for the purchase of the 2011 Bonds via the Parity Bid Submission System (“Parity”) in the manner described below until 11:00 A.M., City of Winter Park time, on \_\_\_\_\_, \_\_\_\_\_, 2011, or on such other date and/or time as will be established by the City Manager or Finance Director or their respective designee and communicated by Thomson Municipal Market Monitor not less than 20 hours prior to the time the bids are to be received. To the extent any instructions or directions set forth on Parity conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall control. For further information about Parity, and to subscribe in advance of the bid, potential bidders may contact Parity at (212) 849-5021. The use of Parity shall be at the bidder’s risk and expense, and the Issuer shall have no liability with respect thereto.**

\_\_\_\_\_, 2011

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\* Preliminary, Subject to Change

**OFFICIAL NOTICE OF SALE**  
\$9,800,000\*  
CITY OF WINTER PARK, FLORIDA  
GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011

The City of Winter Park, Florida General Obligation Refunding Bonds, Series 2011 (the "2011 Bonds") are being offered for sale in accordance with this Official Notice of Sale. Notice is hereby given that bids will be received by City of Winter Park, Florida (the "Issuer" or the "City") for the purchase of the 2011 Bonds via the Parity Bid Submission System ("Parity") in the manner described below until 11:00 A.M., City of Winter Park time, on \_\_\_\_\_, \_\_\_\_\_, 2011, or on such other date and/or time as will be established by the City Manager or Finance Director or their respective designee and communicated by Thomson Municipal Market Monitor not less than 20 hours prior to the time the bids are to be received. To the extent any instructions or directions set forth on Parity conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall control. For further information about Parity, and to subscribe in advance of the bid, potential bidders may contact Parity at (212) 849-5021. The use of Parity shall be at the bidder's risk and expense, and the Issuer shall have no liability with respect thereto.

**BOND DETAILS**

The description of the 2011 Bonds, the purpose thereof and the security therefore, as set forth in this Official Notice of Sale, is subject in its entirety to the disclosures made in the Preliminary Official Statement. See "Disclosure Information" herein.

The 2011 Bonds will be issued as fully registered bonds, and when executed and delivered, will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository for the 2011 Bonds. Individual purchases of the 2011 Bonds may be made only in book-entry form in denominations of \$5,000 or integral multiples thereof. Purchasers of 2011 Bonds (the "Beneficial Owners") will not receive physical delivery of bond certificates. As long as Cede & Co. is the registered owner of the 2011 Bonds, as nominee for DTC, payments of principal and interest with respect to the 2011 Bonds will be made directly to such registered owner who will in turn remit such principal and interest payments to DTC participants for subsequent disbursement to the Beneficial Owners. The Issuer will not be responsible for payments to Beneficial Owners.

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\* Preliminary, Subject to Change

The 2011 Bonds will be dated their date of delivery (expected to be \_\_\_\_\_, 2011) or such other date as may be communicated by Thomson Municipal Market Monitor not less than 20 hours prior to the time bids are to be received, and shall bear interest from such date and shall be payable semiannually commencing on July 1, 2011, and on each July 1 and January 1 thereafter until maturity at the rate or rates specified in such proposals as may be accepted. The proposed schedule of maturities and amounts are as follows:

**INITIAL MATURITY SCHEDULE FOR THE 2011 BONDS \***

<u>(July 1)</u>	<u>Amount</u>	<u>(July 1)</u>	<u>Amount</u>
2012		2017	
2013		2018	
2014		2019	
2015		2020	
2016		2021	

\* Preliminary; Subject to Change

NOTE: The Issuer reserves the right to modify the maturity schedule shown above. Any such modification will be communicated through the Thomson Municipal Market Monitor (See, "ADJUSTMENT OF PRINCIPAL AMOUNTS" below.)

**PAYING AGENT AND REGISTRAR**

The Paying Agent and Registrar for the 2011 Bonds will be Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida.

**ADJUSTMENT OF PRINCIPAL AMOUNTS**

The schedule of maturities set forth above (the "Initial Maturity Schedule") represents an estimate of the principal amount and maturities of the 2011 Bonds that will be sold. The Issuer reserves the right to change the Initial Maturity Schedule by announcing any such change not later than 3:00 p.m., City of Winter Park time, on the day immediately preceding the date set for receipt of bids, through Thomson Municipal Market Monitor. If no such change is announced, the Initial Maturity Schedule will be deemed the schedule of maturities for submission of the bid.

Furthermore, if after final computation of the bids, the Issuer determines in its sole discretion that the funds necessary to accomplish the purpose of the 2011 Bonds is more or less than the proceeds of the sale of all of the 2011 Bonds, the Issuer reserves the right to decrease the principal amount, by no more than 10% of the principal amount of the 2011 Bonds and by no more than 15% within a given maturity of the 2011 Bonds (to be rounded to the nearest \$5,000) or by such other amount as approved by the winning bidder.

In the event of any such adjustment, no rebidding or recalculation of the bids submitted will be required or permitted; and the 2011 Bonds of each maturity, as adjusted, will bear interest at the same rate and must have the same initial reoffering yield as specified immediately after award of the 2011 Bonds of that maturity. However, the award will be made to the bidder whose bid produces the lowest true interest cost rate, calculated as specified herein, solely on the basis of the 2011 Bonds offered, without taking into account any adjustment in the amount of 2011 Bonds pursuant to this paragraph.

### **NO OPTIONAL REDEMPTION PROVISIONS**

The 2011 Bonds are not subject to optional redemption prior to their stated maturity date.

### **AUTHORITY AND PURPOSE**

The 2011 Bonds will be issued pursuant to the authority of and in full compliance with the Constitution and the laws of the State of Florida, including, particularly, Article VII, Section 12 of the Florida Constitution; Chapter 166, Florida Statutes; Sections 132.33 through 132.47, Florida Statutes; the municipal Charter of the City; Ordinance No. \_\_\_\_ duly enacted by the City Commission of the City (the "City Commission") on May 9, 2011 and Resolution No. \_\_\_\_ duly adopted by the City Commission on May 9, 2011 (collective, the "Bond Resolution") and other applicable provisions of law

The 2011 Bonds are being issued to provide funds to (i) refinance previously issued City of Winter Park, Florida General Obligation Bonds, Series 2001, dated November 1, 2001, which originally financed the acquisition and construction of a new public safety complex housing police facilities, a fire station and fire administration facilities, including existing fire station improvements, communications and emergency operations center facilities and improvements and conversion of existing public safety facilities to general government use after relocation of such public safety facilities, and (ii) pay costs associated with the issuance of the 2011 Bonds.

### **SECURITY**

The principal of and the interest on the 2011 Bonds will be payable from and secured by a pledge of the proceeds of ad valorem taxes to be levied by the City at a rate sufficient to provide for the full and prompt payment of the principal of and interest on the 2011 Bonds.

### **UNDERLYING RATINGS**

Moody's Investors Service has assigned underlying municipal bond rating of "\_\_\_\_" to the 2011 Bonds.

## **TERMS OF BID AND BASIS OF AWARD**

Proposals must be unconditional and for the purchase of all of the 2011 Bonds. The reoffering price for the 2011 Bonds may not be less than 98.0% of the principal amount of the 2011 Bonds for any single maturity thereof. The aggregate purchase price, inclusive of original issue discount ("OID"), original issue premium ("OIP") and underwriter's discount may not be less than 98.0% of the principal amount of the 2011 Bonds.

The 2011 Bonds shall bear interest expressed in multiples of one-eighth (1/8) or one-twentieth (1/20) of one (1) per centum. The use of split or supplemental interest coupons will not be considered and a zero rate or blank rate will not be permitted. All 2011 Bonds maturing on the same date shall bear the same rate of interest.

The 2011 Bonds will be awarded to the bidder offering to purchase the 2011 Bonds at the lowest annual interest cost computed on a TIC basis. The annual TIC will be determined by doubling the semi-annual interest rate necessary to discount the semi-annual debt service payments on the 2011 Bonds back to the Net Bond Proceeds (defined as the par amount of the 2011 Bonds, plus any OIP, less any OID and underwriter's discount on the 2011 Bonds calculated on a 360 day year to the Closing Date, as defined below). The TIC must be calculated to four (4) decimal places.

THE ISSUER RESERVES THE RIGHT TO REJECT ALL BIDS OR ANY BID NOT CONFORMING TO THIS OFFICIAL NOTICE OF SALE. THE ISSUER ALSO RESERVES THE RIGHT TO WAIVE, IF PERMITTED BY LAW, ANY IRREGULARITY OR INFORMALITY IN ANY PROPOSAL. THE ISSUER SHALL NOT REJECT ANY CONFORMING BID, UNLESS ALL CONFORMING BIDS ARE REJECTED.

## **GOOD FAITH DEPOSIT**

If the City selects a winning bid, then the successful bidder must submit a "Good Faith Deposit" (the "Deposit") to the Issuer in the form of a wire transfer in the amount of \$\_\_\_\_\_ not later than 2:00 p.m., Eastern Time on the business day following the award. The Deposit of the successful bidder will be collected and the proceeds thereof retained by the Issuer to be applied as partial payment for the 2011 Bonds and no interest will be allowed or paid upon the amount thereof, but in the event the successful bidder shall fail to comply with the terms of the bid, the proceeds thereof will be retained as and for full liquidated damages.

## **STANDARD FILINGS, CHARGES AND CLOSING DOCUMENTS**

The winning bidder will be required to make the standard filings and maintain the appropriate records routinely required pursuant to MSRB Rules G-8, G-11 and G-36. The winning bidder will be required to pay the standard MSRB charge for the 2011 Bonds purchased. In addition, those who are members of SIFMA will be required to pay SIFMA's standard charge per bond. The winning bidder will also be required to execute certain closing documents required by Florida law or required by

Bond Counsel (as defined below) in connection with the delivery of its tax opinion. See “Disclosure; Amendments to Notice of Sale; Notification Obligations of Purchaser” herein.

### **CUSIP NUMBERS**

It is anticipated that CUSIP identification numbers will be printed on the 2011 Bonds, but neither the failure to print such number on any 2011 Bonds nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the 2011 Bonds in accordance with their agreement to purchase the 2011 Bonds. All expenses in relation to the printing of CUSIP numbers on the 2011 Bonds shall be paid for by the Issuer; provided, however, that it shall be the responsibility of the successful bidder to timely obtain and pay for the assignment of such CUSIP numbers

### **DELIVERY OF THE 2011 BONDS**

The Issuer will pay the cost of preparing the 2011 Bonds. The successful bidder is responsible for DTC eligibility and related DTC costs. Delivery of and payment for the 2011 Bonds will be via DTC Fast on or about \_\_\_\_\_, 2011 (the “Closing Date”) in New York, New York, or such other time and place mutually acceptable to the successful bidder and the Issuer. Payment of the full purchase price, less the Deposit, shall be made to the Issuer not later than 12:00 P.M. New York City time on the Closing Date, in Federal Reserve Funds of the United States of America, without cost to the Issuer.

The legal opinion of Bryant Miller Olive, P.A., Orlando, Florida (“Bond Counsel”) will be furnished without charge to the successful bidder at the time of delivery of the 2011 Bonds. For a further discussion of the content of that opinion and the proposed form of the approving opinion, see the Preliminary Official Statement for the 2011 Bonds.

There will also be furnished at the time of delivery of the 2011 Bonds, a certificate or certificates of the Issuer (which may be included in a consolidated closing certificate) relating to the accuracy and completeness of the Official Statement; and stating, among other things, that there is no litigation or administrative action or proceeding pending or, to the knowledge of the Issuer, threatened, at the time of delivery of the 2011 Bonds, (a) to restrain or enjoin or seeking to restrain or enjoin the issuance and delivery of the 2011 Bonds or (b) affecting the validity of the 2011 Bonds, and that the Preliminary Official Statement has been deemed by the Issuer to be a “final official statement” for purposes of SEC Rule 15c2-12(b)(3) and (4).

The successful bidder will be responsible for the clearance or exemption with respect to the status of the 2011 Bonds for sale under the securities or “Blue Sky” laws of the several states and the preparation of any surveys or memoranda in connection with such sale.

**DISCLOSURE; AMENDMENTS TO NOTICE OF SALE;  
NOTIFICATION OBLIGATIONS OF PURCHASER**

This Official Notice of Sale is not intended as a disclosure document and bidders are required to obtain and carefully review the Preliminary Official Statement before submitting a bid.

This Official Notice of Sale may be amended from time to time after its initial publication by publication of amendments thereto not less than 20 hours prior to the bid date and time by Thomson Municipal Market Monitor. Each bidder will be charged with the responsibility of obtaining any such amendments and complying with the terms thereof.

Prior to delivery of the 2011 Bonds to the successful bidder, the successful bidder shall file with the Issuer a statement as described in Section 218.38(1)(c)2, Florida Statutes, containing the underwriting spread (including management fee, if any), and the amount of any fee, bonus or gratuity paid in connection with the 2011 Bonds to any person not regularly employed by the successful bidder. This statement shall be filed with the Issuer even if no such management fee or underwriting spread has been charged by the successful bidder or no such fee, bonus or gratuity has been paid by the successful bidder, and such filing shall be a condition precedent to the delivery of the 2011 Bonds by the Issuer to the successful bidder.

The successful bidder, by submitting its bid, agrees to furnish to the Issuer and Bond Counsel, a certificate verifying information as to the bona fide initial offering prices or yields of the 2011 Bonds to the public and sales of the 2011 Bonds appropriate for determination of the issue price of, and the yield on, the 2011 Bonds under the Internal Revenue Code of 1986, as amended, and such other documentation as and at the time requested by Bond Counsel.

The winning bidder is required to provide a Truth in Bonding Statement pursuant to Section 218.385, Florida Statutes, and to disclose the payment of any "finder's fee" pursuant to Section 218.386, Florida Statutes, prior to the award of the 2011 Bonds, as set forth in Exhibit A to this Official Notice of Sale.

**OFFICIAL STATEMENT**

The Issuer shall furnish at its expense within seven (7) business days after the 2011 Bonds have been awarded to the successful bidder, or at least five (5) business days before the Closing Date, whichever is earlier, up to 100 copies of the final Official Statement, which, in the judgment of the financial advisor to the City will permit the successful bidder to comply with applicable SEC and MSRB rules. The successful bidder may arrange for additional copies of the final Official Statement at its expense.



## **CONTINUING DISCLOSURE**

In order to assist bidders in complying with SEC Rule 15c2-12, the Issuer will undertake to provide, or cause to be provided, certain financial information and operating data and to provide notices of certain events, if material. Such information will be filed with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System (EMMA). Notices of material events will be filed with the Municipal Securities Rulemaking Board through EMMA. A summary of such undertaking is contained in the Preliminary Official Statement. A copy of the undertaking will be made available to the successful bidder prior to the delivery of the 2011 Bonds.

## **DISCLOSURE INFORMATION**

Copies of the Preliminary Official Statement “deemed final” (except for permitted omissions) by the Issuer in accordance with SEC Rule 15c2-12 must be obtained from the financial advisor to the Issuer, Public Financial Management Inc., 300 South Orange Avenue, Suite 1170, Orlando, Florida 32801 (407) 648-2208 before a bid is submitted. The Issuer’s Preliminary Official Statement and Official Notice of Sale are also available for viewing in electronic format at <http://www.idealprospectus.com>.

## **NOTICE OF BIDDERS REGARDING PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

CITY OF WINTER PARK, FLORIDA,

By: /s/ Charles W. Hamil, III, CPA  
Finance Director

## **EXHIBIT A**

### **TRUTH-IN-BONDING STATEMENT AND DISCLOSURE**

In compliance with Section 218.385, Florida Statutes, as amended, the undersigned bidder submits the following Truth-In-Bonding Statement with respect to the City of Winter Park, Florida General Obligation Refunding Bonds, Series 2011 (the "Bonds") (NOTE: For information purposes only and not a part of the bid):

The City of Winter Park, Florida (the "Issuer") is proposing to issue \$\_\_\_\_\_\* of the Bonds for the purpose of refinancing previously issued City of Winter Park, Florida General Obligation Bonds, Series 2001. The Bonds are expected to be repaid over a period of approximately \_\_ years. At a forecasted interest rate of \_\_\_\_\_%, total interest paid over the life of the Bonds will be \$\_\_\_\_\_.

The Bonds will be general obligations of the City, payable from unlimited ad valorem taxes levied on all taxable property in the City and therefore since the Bonds are voter approved debt, the issuance thereof will not result in any less ad valorem taxes the city will be able to levy and collect.

In compliance with Section 218.386, Florida Statutes, the undersigned, on behalf of itself and all other members of the underwriting group, if any, hereby certifies that neither it nor any member of the underwriting group have paid any "finder's fees" as defined in Section 218.386, Florida Statutes, any bonus, fee or gratuity in connection with the sale of the Bonds, except as provided below:

Bidder's Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\* Preliminary, Subject to Change.

## **CERTIFICATE WITH RESPECT TO "ISSUE PRICE"**

\_\_\_\_\_, acting on behalf of itself and the syndicate selling group, if any, created by it as purchaser (the "Purchaser") of the \$\_\_\_\_\_ General Obligation Refunding Bonds, Series 2011(the "2011 Bonds") of City of Winter Park, Florida (the "City"), in order to establish the initial offering price(s) of the 2011 Bonds for the purpose of determining the "issue price" of the 2011 Bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, DOES HEREBY CERTIFY, as follows:

1. As of this date, the terms under which the Purchaser agreed to purchase the 2011 Bonds from the City in a public bid on \_\_\_\_\_, 2011, have not been modified or amended in any material respect.

2. All of the 2011 Bonds have been the subject of a bona fide initial offering to the public excluding bondhouses, brokers or similar persons or organizations acting in the capacity of underwriters and wholesalers (the "Public"), made pursuant to the final Official Statement dated \_\_\_\_\_, 2011 (the "Official Statement"), of the City relating to the 2011 Bonds.

3. As of this date, none of the 2011 Bonds have been sold in exchange for property (other than cash or other legal tender) and none of the 2011 Bonds remaining to be sold as of this date are expected to be exchanged for property.

4. All of the 2011 Bonds have been initially offered at yields no lower than, the respective yields shown on the cover of the Official Statement (the "Official Statement Yields").

5. To the best of our knowledge, based on our records and other information available to us which we believe to be correct after reasonable investigation, as of \_\_\_\_\_, 2011, the date of the sale of the 2011 Bonds to the Purchaser (the "Sale Date"), individual 2011 Bonds aggregating not less than ten percent (10%) of the total principal amount of each maturity of the 2011 Bonds were sold by the Purchaser to the Public at yields equal to the Official Statement Yields, and no 2011 Bonds had been sold to the Public at a yield less than the applicable Official Statement Yields. As of the Sale Date, based upon our assessment of the then prevailing market conditions, we had no reason to believe any of the 2011 Bonds would be initially sold to the Public at yields different than the Official Statement Yields.

Dated: \_\_\_\_\_, 2010

By: \_\_\_\_\_

Title: \_\_\_\_\_



# city commission public hearing

item type	Public Hearing	meeting date	May 9, 2011
prepared by	Butch Margraf	approved by	<input checked="" type="checkbox"/> City Manager
department	Public Works		<input type="checkbox"/> City Attorney
division	Engineering		<input type="checkbox"/> N/A
board approval	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A		
		final vote	

## subject

Complete Streets Resolution

## motion | recommendation

Approve the resolution for Complete Streets

## summary

A resolution for the City of Winter Park to adopt a **complete streets policy** ensuring that transportation planners and engineers consistently design and operate the entire roadway with **all users** in mind - including pedestrians, public transportation vehicles and riders, and bicyclists of all ages and abilities.

## board comments

The resolution was reviewed and approved by the Pedestrian Bicycle Board with these changes.

1. In the 4<sup>th</sup> Whereas paragraph specific streetnames were removed.
2. In the Now, Therefore, Be It Resolved paragraph the words "complete" and "multimodal" were added in the sentence.
3. In the 1<sup>st</sup> Resolve paragraph the word "shall" replaced the word "should" twice, and the phrase "to the fullest extent possible" was added.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO ESTABLISH A "COMPLETE STREETS POLICY" TO INTEGRATE BICYCLING, WALKING, AND PUBLIC TRANSIT WITH THE CITY'S TRANSPORTATION PROGRAMS, PROJECTS, POLICY INITIATIVES, GOALS AND OBJECTIVES; PRESENTING GUIDELINES FOR ROUTINELY INCORPORATING COMPLETE STREETS INTO PRACTICE AND TO REPORT ANNUALLY ON COMPLETE STREETS IMPLEMENTATION.

**WHEREAS**, the mobility and accessibility afforded the individual is basic to the success of the City's land use and transportation system, where complete streets are designed and operated to assure safety, comfort (i.e. perceived safety), and accessibility for all users of our roads, trails, and transit systems, including pedestrians, bicyclists, transit riders, motorists, commercial and emergency vehicles, and for people of all ages and abilities; and

**WHEREAS**, the early settlement patterns for Winter Park demonstrated an innate understanding of the relationship between walking and land use, integrating slower moving vehicles with walking, and an easily accessible mixture of land uses, but a century of changing development types and standards has shifted some of the City's land use and transportation system from the convenience of a walk to the convenience of a drive, resulting in greater dependence on the motor vehicle for basic travel; and

**WHEREAS**, the City of Winter Park's Comprehensive Plan Transportation Element includes adopted goals, objectives and policies that support Complete Streets; including Goal 2-1.1, Objective 2-1.1, and Policies 2-1.1 through 2-1.16; Objective 2-3.1; Objective 2-5.1, Policies 2-5.1 through 2-5.6; and Objective 2-6.1, Policies 2-6.1 through 2-6.9; and

**WHEREAS**, without proper design and understanding of bicycle and pedestrian needs, road construction and traffic operations may increase hazardous conditions for the vulnerable modes of walking and cycling, as has been reported in various studies, and

**WHEREAS**, the City of Winter Park's Transportation Plan already includes projects that implement Complete Streets, and should be reviewed for the inclusion of additional candidates for road "diets" on 4-lane road segments with less than 20,000 ADT. Putting this plan into action will accomplish many goals of Complete Streets and the City of Winter Park Comprehensive Plan; and

**WHEREAS**, increasing the opportunity for cycling and pedestrian travel through better integration of land use and transportation does reduce reliance on fossil fuels, and places Winter Park in a position to more effectively reduce greenhouse emissions; and

**WHEREAS**, recent data on obesity and public health identifies a relationship between land use, automobile dependency, and poor health, which can and has been improved for communities exercising the principles of complete streets; and

**WHEREAS**, various national movements have been promoting a return to a more balanced urban environment and streetscape, using terms such as “livable communities”, “new urbanism,” “smart growth,” “complete streets,” and “healthy communities,” strategies, which reduce congestion, increase the overall capacity of the transportation network, decrease consumer transportation costs, improve air quality, support economic growth, increase community stability by providing accessible and efficient connections between home, school, work, recreation, and retail destinations by improving the land use and transportation connections; and

**WHEREAS**, the Victoria Transport Policy Institute cites studies showing that reductions in traffic speeds increased adjacent residential property values by approximately 20% and that a several-hundred-per-day car volume reduction on residential streets increased home values by 18% on average; and

**WHEREAS**, the USDOT/Federal Highway Administration (FHWA) Design Guidance for Accommodating Bicycle and Pedestrian Travel issued in 2000, stated that bicycle and pedestrian ways shall be established in new construction and reconstruction projects in all urbanized areas; and

**WHEREAS**, Florida Statutes, Section 335.065, titled “Bicycle and pedestrian ways along state roads and transportation facilities” is part of the Florida Department of Transportation’s (FDOT) Pedestrian and Bicycle Procedure and states that “Bicycle and pedestrian ways shall be given full consideration in the planning and development of transportation facilities...and bicycle and pedestrian ways shall be established in conjunction with the construction, reconstruction, or other change of any state transportation facility...”; and

**WHEREAS**, in 2005, the Florida Legislature directed FDOT to determine ways to increase the use of bicycles in order to conserve energy, reduce pollution, and improve health, and established FDOT’s Conserve by Bicycle Program Study, which recommended that “public agencies accommodate bicycling on all non-limited access roadways in Florida”; and, warns that “the way Florida plans its development and roadways must change”; and

**WHEREAS**, Winter Park has invested in transportation systems to balance the community's mobility and accessibility, but continues to experience practical challenges in integrating mobility systems with each other and within the urban landscape; and

**WHEREAS**, roadway classification defines the function of the roadway, where access on abutting properties on arterial and collector roads are currently determined to be of secondary consideration, despite that a balanced urban community requires that transportation routes and abutting properties be functionally integrated, since the purpose of a trip is for the person to reach the destination (accessibility), regardless of mode;

**NOW, THEREFORE, BE IT RESOLVED THAT WINTER PARK, FLORIDA, intends for complete street design and multimodal connectivity to be encouraged, with the aim of creating a comprehensive, integrated, and connected network for all modes of transportation.**

**RESOLVED**, that the City of Winter Park affirms that all road projects shall be designed to **comfortably** accommodate all users to the fullest extent possible; that bicycling, walking, and public transit accommodations is a routine part of the city planning, design, construction, maintenance, and operating activities; and that bicycle and pedestrian ways shall be considered in new construction, reconstruction, resurfacing or other retrofit road and bridge projects. In developing these accommodations, the latest, best, and context-sensitive design standards will be used, while recognizing the need for flexibility in balancing user needs.

**RESOLVED**, that very limited exceptions to these required accommodations are allowed under Florida Statutes, Section 335.065 related to state controlled roadways. The Public Works Director will review the formal approval process related to granting these exceptions along city roadways. That being said, for streets that are under the control of other jurisdictions within the boundaries of the City of Winter Park or that influence the City of Winter Park, the City of Winter Park will highly encourage the other jurisdictions to respect and use a similar approach to complete streets as the City uses.

**RESOLVED**, that streets that do not operate to assure safety, comfort, and accessibility for all users are considered "deficient."

**RESOLVED**, that by August 2011, the Public Works Director is directed to work with appropriate City staff to best implement the City's Transportation Plan as part of Winter Park's "Complete Streets Policy". Some performance measurements that could be included in the annual budget report to assess the impact of the Complete Streets Policy include: the number of linear feet of sidewalk; routine pedestrian accommodation through mid-block crossings, median refuge islands, crosswalks or curb extensions at

intersections; the number of miles of on street bicycle lanes, signed routes, or off road multi-use trails; and

**RESOLVED**, that these actions will enable the City of Winter Park to become a complete streets leader in Florida, and the nation.

**RESOLVED**, that the City Council urges the State of Florida, the Florida Department of Transportation, Orange County, and all the other cities and towns within Orange County to embrace and adopt complete streets guidelines and policies and integrate them into their standard street design and operations.

**RESOLVED**, that the City Clerk is instructed to transmit a copy of this Resolution to the Orange County's state congressional delegation in Tallahassee and Washington DC [Senators and Rep.], and the Director of Metroplan Orlando.

ADOPTED by the Winter Park City Commission on the 9<sup>TH</sup> day of May, 2011.

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Mayor Kenneth W. Bradley

ATTEST:

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Cynthia S. Bonham, City Clerk





BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

*Attorneys at Law*

111 N. Orange Ave., Suite 2000  
P.O. Box 2873  
Orlando, Florida 32802-2873  
Phone (407) 425-9566  
Fax (407) 425-9596

**Usher L. Brown**  
Board Certified Civil Trial Lawyer

*ulbrown@orlandolaw.net*

March 14, 2011

Randy Knight, City Manager  
Michelle del Valle, Assistant City Manager  
City of Winter Park  
401 Park Avenue South  
Winter Park, FL 32789

***via email & regular U.S. Mail***

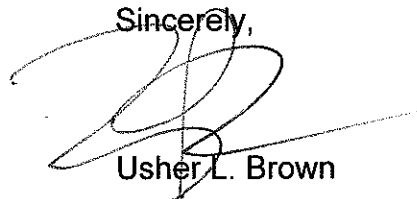
Re: Policy regarding citizen and Board Member enforcement of Municipal Code

Dear Randy and Michelle:

Enclosed please find a proposed resolution concerning the City's position regarding citizen enforcement of Code and municipal law. This is consistent with a recent discussion at a Commission meeting.

If you would rather this just be a policy, advise and I will rewrite the resolution and make it into a simple policy for Commission approval. I recommend, however, that this be adopted as a resolution.

Sincerely,



Usher L. Brown

ULB:tla  
Enclosure

G:\Docs\City of Winter Park\Ordinances and Resolutions\citizen and board member enforcement of municipal code\lrr.knight and del valle re citizen enforcement resolution.wpd

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RESOLVING THAT IT IS THE POLICY OF THE CITY OF WINTER PARK THAT CITIZEN MEMBERS OF BOARDS AND AUTHORITIES OF THE CITY OF WINTER PARK SHALL NOT HAVE THE RESPONSIBILITY OR AUTHORITY TO UNILATERALLY ENFORCE PERCEIVED MUNICIPAL CODE VIOLATIONS.**

**WHEREAS**, it has come to the attention of the City Commission of the City of Winter Park that on occasion individual members of citizen boards, authorities, and advisory bodies of the City of Winter Park may take it upon themselves to individually enforce perceived infractions or violations of the Municipal Code; and

**WHEREAS**, the City has great concern that unilateral enforcement by citizen members may result in a disruption of the peace, and such unilateral action presents a risk of injury or municipal liability; and

**WHEREAS**, the City of Winter Park desires that Municipal Code violations and other infractions will be processed and handled through the appropriate professional practices and procedures established by the City for enforcement.

**NOW, THEREFORE**, be it resolved by the City Commission of the City of Winter Park, Florida as follows:

**Section 1.** The recitals set forth above are hereby adopted and incorporated herein by reference.

**Section 2.** It is the policy of Winter Park that individual members of any board or authority of the City of Winter Park shall not unilaterally enforce perceived Municipal Code violations, and individual members should not take any action to enforce Municipal Code violations other than reporting the perceived violations to the City Manager or appropriate professional staff.

**Section 3.** The authorities and boards of the City of Winter Park only have authority to act by majority vote of quorum present at a duly convened meeting of such authority or board, and under the circumstance that the meeting is duly noticed and is compliant with the requirements of Florida's Sunshine Law.

**Section 4.** Individual members of boards and authorities of the City of Winter Park do have the responsibility to engage in fact finding that is relevant to the position of such person as a member of a board or authority of the City of Winter Park, but fact finding or requests for information shall not include any effort to individually enforce the Municipal Code.

**Section 5.** Individual members of boards and authorities of the City of Winter Park are encouraged to report any perceived violation of the Municipal Code to Code Enforcement, law enforcement, or the City Manager, for their appropriate response, giving due regard to the discretion afforded local government with respect to the enforcement of law.

**Section 6.** All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 7.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

**Section 8.** This Resolution shall become effective immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Kenneth W. Bradley, Mayor

Attest: \_\_\_\_\_  
Cynthia S. Bonham, City Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO THE ADOPTION OF A POLICY FOR COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS ACT; PROVIDING FOR CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park, Florida finds that the City and its staff have a paramount duty to comply fully and effectively with the requirements of Florida's Public Records Act, Chapter 119, Florida Statutes; and

**WHEREAS**, the City has determined that it would be in the interest of the citizens of Winter Park and will promote greater efficiency in responding to requests for public records if a policy is adopted by the City and implemented by staff with respect to compliance with the law; and

**WHEREAS**, the City Clerk has developed a policy that is consistent with and supplements state law, said policy being attached as Exhibit "A" hereto and incorporated herein by reference; and

**WHEREAS**, the City Commission has determined that the Public Records Act fails to expressly address certain issues that arise when members of the public request public records, and this policy will greatly assist staff in responding efficiently and in a consistent manner to requests for public records; and

**WHEREAS**, the City Commission has determined that the policy developed by the City Clerk and attached as Exhibit "A" hereto is in compliance with Florida's Public Records Act, supplements the Act in a manner that is lawful and will promote efficiency, and is in the best interest of the citizens of Winter Park.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS**

Section 1.     Recitals. The foregoing recitals are incorporated herein by this reference.

Section 2.     Adoption of the Public Records Act Policy. The policy concerning public records attached as Exhibit "A" hereto, is hereby enacted by Ordinance as the City's governing policy and local law when members of the public request the City's public records.

Section 3.     Codification. The policy attached as Exhibit "A" shall be codified in a new subsection 2-132(c) of the City Code. The policy shall be incorporated into the Winter Park City Code at subsection 2-132(c), and any section, paragraph number, letter or any heading within the policy may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected

when the policy is incorporated into the City Code, and additions, alterations and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 4.     Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto.

Section 5.     Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 6.     Effective Date of Ordinance. This ordinance shall become immediately upon adoption by the City Commission of the City of Winter Park, Florida, and pursuant to City Charter.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

---

Mayor Kenneth W. Bradley

ATTEST:

---

Cynthia S. Bonham, City Clerk

**EXHIBIT "A"**  
**CITY OF WINTER PARK, FLORIDA**  
**PUBLIC RECORDS REQUEST POLICY**

**1. INTRODUCTION**

It is the policy of the City of Winter Park ("City") that all municipal records, with the exception of exempted records identified by Florida Statutes, §119.07 or other applicable sections of Florida Statutes, shall be open for personal inspection by any person.

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by the City. (F.S., §119.011(1)).

**2. OBJECTIVE**

The purpose of this policy is to affirm the public's right to access City records, to set forth the procedures that will facilitate accessibility of information to members of the public, and to establish fees to be levied by the City to cover the cost of responding to public records requests.

**3. EFFECTIVE DATE**

This Policy will become effective immediately upon adoption of the ordinance.

**4. PROCEDURE**

**A. Processing Public Records Requests**

The City Clerk/City Manager have the authority to determine that the request is routine and can appropriately be handled by a department head or other staff person at a department level. In that case, the person requesting public records will be directed to schedule a time to examine the records and to make copies at his or her cost (see costs below).

The City Clerk is the official custodian of all City records, and any person requesting records is on notice that there may be a delay in receiving access to public records if he or she requests records from someone other than the City Clerk.

Although requests are not required to be in writing, a written request will facilitate clear communication and a concise statement of what is being requested and is encouraged. Requestors should specify whether they wish to simply inspect records or obtain copies.

Any City employee who receives a request for this type of information should comply as soon as practicable. After assisting the requestor, staff should transmit information regarding any unusual requests to the City Clerk's office. The City Clerk will determine if the nature of the request requires a copy be sent to the City Attorney. The City Clerk does not need to be informed of routine requests; only ones requiring extensive time and research.

If Departments that have records in their possession indicate that the retrieval of the records will take more than 20 minutes in order to retrieve, produce, maintain custody of and to return the records, staff will provide the requestor with an estimate of the cost for doing such work. The estimate should include sufficient information so that the person requesting the records will understand the scope of work involved that justifies the estimate amount of time and deposit amount.

The person requesting can either schedule on a reasonable basis a review of the records (which will require supervision because of the need to maintain security of the records; and that time spent in supervising may trigger the right to receive a deposit for extraordinary work) or may pay for a copy of all the records with the cost of shipping added to the bill if it is mailed. Payment should be received before copies are made and mailed.

Departments should provide the City Clerk's office with the name and hourly pay rate of the employee who will be doing the retrieval for requests requiring a significant amount of time to complete. They should select the lowest paid employee capable of efficiently retrieving the records. No benefits multiplier shall be added to the labor charge. The City Clerk's office shall notify the requestor of the estimate and confirm whether the requestor is willing to pay the labor charges and copying charges, if any. A request will be made by the City Clerk for a deposit for extraordinary requests. The City Clerk's office will confirm with the requestor that the City must be paid in advance of the requestor's receipt of the records.

Exemptions must be identified promptly. Exceptions are generally found in Section 119.071, but there are other exemptions provided in the law. Requests for documents which may contain information which is exempt from disclosure under Florida law may be delayed until the records can be reviewed and redacted as necessary by the custodian of the records. The City Attorney's office should be contacted for clarification of exemptions under F.S. 119 that you are unsure of.

The Public Records Law does not require staff to create or reassemble records in a new format. The law only requires staff to provide access to records that already exist. Also, the Public Records Law does not require staff to answer questions or to conduct analysis.

### Media Requests

Requests from the media for public records shall be handled consistently with the procedures outlined above. All staff members receiving a request directly from the media shall immediately inform the Communications Department of the request.

### B. Charges for Public Records

#### *(1) General*

- a. The charge for a duplication of a one-sided letter size (8- 1/2" x 11), legal size (8- 1/2" x 14") or oversize (11" x 17") document, capable of being reproduced on existing City equipment, shall be fifteen cents (\$.15) per copy. Duplication of two-sided pages shall be twenty (\$.20) per copy.
- b. For large, single documents not covered above (i.e. blueprints, maps, plats, etc.), the charge shall be the actual cost to the City for outside reproduction.

- c. For books and other multi-page volumes printed by the City (i.e. annual budget, growth management plan, various financial reports), the charge shall be the actual cost for outside reproduction.
- d. The charge for a certified copy of a public record shall be one dollar (\$ 1.00) per certification, plus the applicable copying charges.
- e. If documents are easily retrieved and readily available, there should be no charge unless there is a substantial amount of copies made, then only charge for the copies.

*(2) Multi-Media Public Requests*

- a. If a photographic reproduction is requested, the charge shall be the actual cost for outside reproduction.
- b. The charge for CD's is \$5.00 each. Copies of video tapes or other such media shall be the cost to the City, plus applicable labor charges.

*(3) Labor Charges*

For extraordinary requests requiring more than 20 minutes of staff time, a labor charge will be imposed. Such charge shall be the result of the employee's hourly rate of pay, multiplied by the actual time worked to accommodate the request and measure in tenths of an hour.

*(4) Revenue Collection and Receipts*

A receipt for payment of costs associated with Public Records shall be given to the requestor upon payment of the levied fee. All fees collected shall be forwarded to the Finance Department for deposit in the City's General Fund.

*(5) Access to Records*

- a. For the purpose of this policy, "reasonable" time to provide access to public records is during normal working hours — Monday — Friday, 8:00 a.m. — 5:00 p.m. At all times records will be inspected, reviewed and copied under supervision by the custodian of the public records requested, or the custodian's designee, pursuant to F.S. 19.07(4)(d).
- b. A reasonable special service charge will be imposed based on the actual labor cost for clerical personnel who may be required due to the nature or volume of a public records request to safeguard such records from loss or destruction during their inspection.

**5. LAW ENFORCEMENT RECORDS**

Copies of Law Enforcement records shall be subject to fees as outlined in F.S. 321.23. Media inquiries and public records requests received directly by the Police Department will be processed as outlined in Winter Park Police Department Standard Operating Procedures.



6. HEALTH INFORMATION PRIVACY AND PORTABILITY ACT (HIPPA) PATIENT RECORD PACKAGE

All requests for patient records related City ambulance transport services are established in the City's fee schedule. The City is not a licensed medical provider as described in F.S. 458.309, 64B8-10.003 and therefore has established a separate fee for generating these records.

7. REFERENCE

Florida Public Records Law, Chapter 119, Florida Statutes.